LIBRARIES AND THE LAW

WHAT YOU NEED TO KNOW ABOUT LAWS RELATING TO ONTARIO PUBLIC LIBRARIES

The Ontario Ministry of Citizenship and Culture

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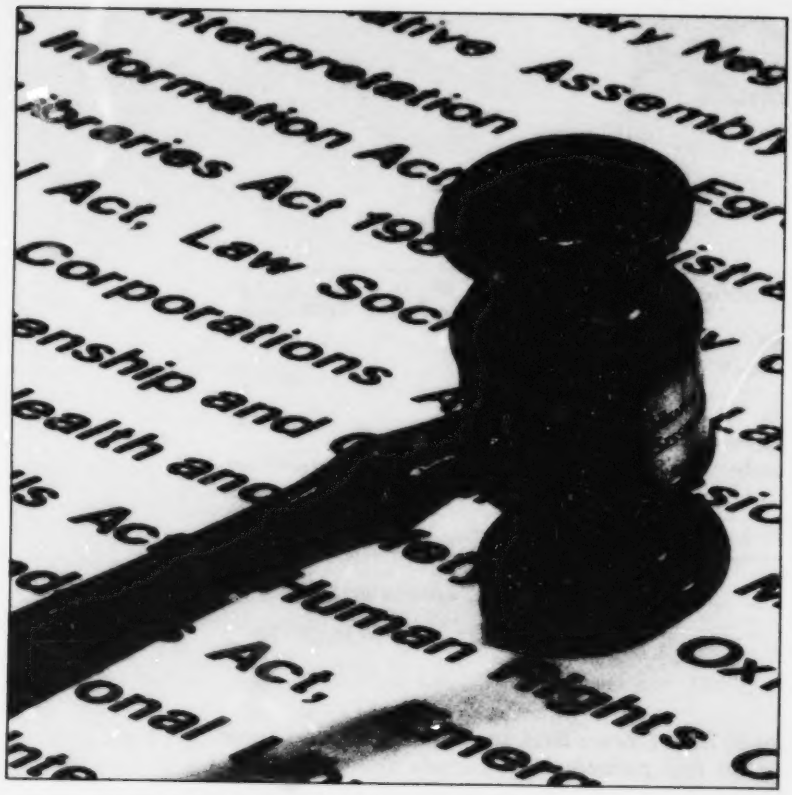
LIBRARIES AND THE LAW



WHAT YOU NEED TO KNOW ABOUT LAWS RELATING TO ONTARIO PUBLIC LIBRARIES

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This gavel was made from a beam from the building which housed the first session of the first parliament of Canada in June 1841.

Courtesy the Law Society of Upper Canada.
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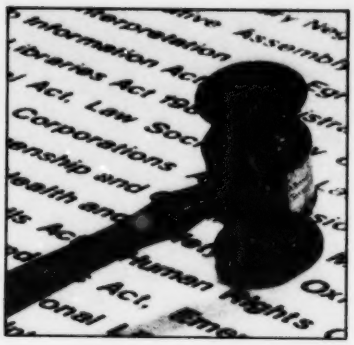

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Preface

The *Public Libraries Act, 1984* requires a public library board to provide, in cooperation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs.

Libraries and the Law was prepared to assist public library board trustees and staff in coping with the variety of legislation impacting on their responsibility to manage and operate a public library service in their community.

Comments on *Libraries and the Law* are welcome and may be forwarded to:

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Wil Vanderelst
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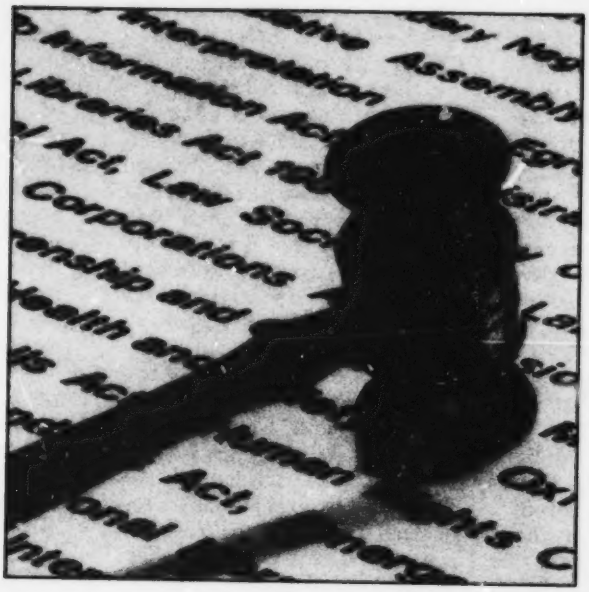
INTRODUCTION



A fundamental principle of local government in Canada is that both municipal organizational forms and special purpose bodies are creatures of the provincial government. Provincial law creates municipalities; municipalities are given the power to pass by-laws regulating a great variety of local operations, including the conduct of certain local special purpose bodies. Public library boards are local special purpose bodies created by the province in response to requests from local municipalities. A public library board is therefore a separate legal entity from its local municipal council, but heavily dependent upon it, and is considered to be, for all intents and purposes, a municipal body.

As an entity created by law (as opposed to a natural person), a public library board can only perform those activities that are explicitly authorized by Acts of the Ontario Legislature. A public library board is legally a corporation, which allows it to perform a broad range of activities that do not need to be spelled out in detail for public library boards *per se*. The limitation upon boards as corporations is referred to in the *Consolidated Encyclopedic Digest* (Title 36, vol. 6, p. 73, paragraph 56), "A Corporation cannot do what it likes with its property, but must deal with it according to the laws governing its constitution." These express limitations mean, in practical terms, that a legal interpretation of the laws governing boards and corporations must be sought if a library board wishes to undertake activities which are not explicitly permitted.

This citator lists federal and Ontario statutes and regulations and Canadian case law having some relevance to public libraries. We have attempted to identify and cite law which applies directly to Ontario public libraries. The more difficult task has been to include law which applies indirectly. We have noted such law as relates to public libraries within a more general context. For instance, under both the *Municipal Act* and the *Municipal Affairs Act*, the term "municipalities" includes local boards, and "local boards" includes, explicitly and implicitly, public library boards. Thus the provisions of these two Acts may also be construed to apply to public library boards. In Acts such as the *Corporations Act*, provisions will apply to public libraries unless expressly exempted. In all instances in which two Acts, a more general Act and the *Public Libraries Act, 1984*, apply to the same subject, and there is conflict between the two Acts, then the *Public Libraries Act, 1984* will apply. If between a more general Act and the *Public Libraries Act, 1984* there is no conflict, then both Acts apply. While it is conceivable in any given instance that virtually any law might be applied to a particular library's circumstances, we have attempted to include only that law which covers the day-to-day legal realities of library operation.

The citator is divided into two sections. The first part is an annotated and alphabetical listing of relevant law. The short title entry is followed by source notes and a list of current amendments. Sections of cited law which seem of particular interest to libraries have been briefly annotated. The second part of the citator is a subject index, in which, under the subject heading, the short title of the law and the section, subsection or paragraph numbers are included.

A general distinction may be drawn between statutes and regulations. A regulation is a form of subordinate legislation, which achieves the force of law from the authority of a statute. Regulations may be made by agencies of the government (e.g., regulations made by a Ministry), by independent local governments (as in municipal by-laws), or they may appear as rules governing the conduct of courts. An important distinction for special purpose bodies, such as library boards, is that regulations do not undergo the full legislative process – as statutes do – and may be changed more frequently than statutes.

This publication is intended only to serve as a pointer to particular Acts, Regulations or cases as of December 31, 1984. The cases are presented as examples of how public library boards have become involved with the legal process. The law, as presented in the cases, is valid but must be interpreted in light of the facts of a particular case as well as in the context of the overall law in that subject area. This citator does not purport to present the totality of the law as it relates to public libraries in Ontario. The annotations should only be read as finding aids (elaborate index terms, if you like) and should not, in any event, be taken to be an interpretation of the law. The authors cannot over-emphasize the importance of a board consulting its lawyer if any legal questions are raised.

The authors would like to express their appreciation for the support of the project provided by Ontario's Ministry of Citizenship and Culture, Libraries and Community Information Branch, the School of Library and Information Science, University of Western Ontario and to Dr. Margaret A. Banks, Librarian-in-Charge, University of Western Ontario Law Library and E.S. Beacock, Adjunct Professor, School of Library and Information Science, University of Western Ontario, for their reading of the manuscript. While we have leaned upon their advice and guidance in developing the citator, its final form, including any errors or omissions, is the responsibility of the authors.

Sam Coghlan

Stephen Cummings

February 28, 1985

ANNOTATED ACTS, REGULATIONS AND CASES

Access to Information Act

S.C. 1980-81-82-83, c.111, as am. S.C. 1980-81-82-83, c.165, s.34; c.167, Sch. 1, item 1; c.168, s.71; 1983-84, c.21, ss.70(1),71; c.25, ss.98,99.

Complex legislation which includes the Privacy Act as Section 2. Of particular interest are exemptions in **s.68(b) and Section 2, s.69(1),(2)**, which refer to library or museum material "made or acquired and preserved solely for public reference or exhibition purpose."

Administration of Justice Act

R.S.O. 1980, c.6.

Section 2(2) authorizes the Minister of Government Services to acquire more property than necessary for the administration of justice (courts, land registries, jails, and offices of coroners, clerks of the peace and Crown attorneys) and to make arrangements for a board to use part thereof.

Assessment Act

R.S.O. 1980, c.31, as am. S.O. 1981, c.47; 1982, c.40, s.3; c.56; 1983, c.58; 1984, c.28; c.48; c.49.

Under **s.3(9)**, land owned or controlled by a board is not liable to assessment and taxation under this Act unless occupied by a tenant or lessee who is liable for taxation. **Section 3(14)** specifically exempts "the property of every public library . . . to the extent of the actual occupation of such property."

Boilers and Pressure Vessels Act

R.S.O. 1980, c.46, as am. S.O. 1983, c.33.

Provides for the safe design, installation and operation of boilers and pressure vessels, and allows for inspection of these. **Section 33** concerns defects in boilers or pressure vessels, which are to be reported forthwith to the Chief Inspector. **Section 37** refers to accidents involving boilers and pressure vessels, which are to be reported to the Minister of Consumer and Commercial Relations, and to subsequent accident investigation by the inspectors.

Building Code Act

R.S.O. 1980, c.51, as am. S.O. 1983, c.83.

The relevant Regulation under the Act is O. Reg. 583/83, as am., which is popularly known as *The Building Code.*

Canada Gazette (1978) Special Issue Regulations

S.O.R./79-613, as am.

Section 3(c) and Schedule III of these Regulations (which are made under the *Statutory Instruments Act)*, provide that, on request, a copy of the special issue of the Canada Gazette, Part II, published in conjunction with the *Consolidated Regulations of Canada, 1978*, shall be sent free of charge to the chief librarian of each public library in Canada.

Canada Oil Substitution and Conservation Regulations

S.O.R./81-439.

These Regulations (which are made under the *Appropriation Act No. 1*, S.C. 1980-81-82-83, c.52) provide that public libraries are eligible for grants to convert heating systems so as to partially or completely replace the use of oil by an approved alternative energy source before December 31, 1990.

Charitable Gifts Act

R.S.O. 1980, c.63.

Section 2 states that if a charitable body receives a donation of all or part of a business for profit, the body can dispose of whatever portion of that interest exceeds a 10% interest in the business.

Charities Accounting Act

R.S.O. 1980, c.65, as am. S.O. 1982, c.11; 1983, c.61.

Requires that executors and trustees of charitable bodies report bequests or donations to the Public Trustee. "Charitable body" includes "Any corporation incorporated for a religious, educational, charitable or public purpose." The Act also provides for the role of the Public Trustee, executors, auditing of accounts, procedural remedies, manner of solicitation of funds and investigations of complaints related to solicitation of funds. "Charitable purpose" is extended to include relief of poverty, education, advancement of religion, or any purpose beneficial to the community. Land held for a charitable purpose may be held only for actual occupation for the purpose, else it becomes vested in the Public Trustee after a period of three years.

City of Calgary v. **Calgary Civic Employees, Local 37** (1978)

13 A.R. 291 (S.C.T.D.).

A case in which striking civic employees were allowed to picket several buildings, including the public library, where they had watered plants for as few as one and a half days a week. *N.B.*, This case relies on Alberta law and may not be applicable in Ontario.

Compulsory Automobile Insurance Act

R.S.O. 1980, c.83.

Essentially, the Act says that no owner of a motor vehicle shall operate or have a vehicle which they own operated on a road unless insured.

Consolidated Regulations Delivery Regulations

S.O.R./79-538.

Section 5 and Schedule III of these Regulations (made under the *Statutory Instruments Act*, S.C. 1970-71-72, as am.) provide for delivery without charge of a soft cover *Consolidated Regulations of Canada, 1978* to the chief librarian of each public library in Canada.

Copyright Act

R.S.C. 1970, c.C-30, as am. R.S.C. 1970 (2nd Supp.), c.4; c.10, s.65; S.C. 1974-75, c.50, s.47; 1976-77, c.28, s.10; 1981, c.47, s.9; 1980-81-82-83, c.111, Sch. IV, s.5.

Section 3 defines copyright as "the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof . . ." **Section 5** provides that the term of copyright "shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death." **Section 12** deals with ownership of copyright; generally the author is the first owner though there are certain exceptions. **Section 17** relates to infringement of copyright – subs. 2(a) contains an important exception: "Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary" does not constitute infringement. However, Keyes and Brunet, in *Copyright in Canada: Proposals for a Revision of the Law* (1977), p. 166, stated, "Under the present law,

it is doubtful whether the defence of fair dealing is available to librarians who make copies of material for third parties who themselves could claim that defence, e.g., library users engaged in research." Later proposals to revise the *Copyright Act*, contained in a White Paper entitled *From Gutenberg to Telidon* (1984), are being studied by a Commons Committee which is scheduled to report by 24 May 1985.

Corporations Act

R.S.O. 1980, c.95, as am. S.O. 1984, c.14, s.26.

Unless otherwise expressly provided, this Act applies to, among others, every corporation incorporated by or under a general or special Act of the Legislature. Public library boards are nowhere expressly exempted, so the Act applies to public library boards. In several instances, this Act provides for matters that are also legislated for in the *Public Libraries Act, 1984*. If there is a conflict between the provisions of the two Acts, the *Public Libraries Act, 1984* applies. But, in situations where both Acts legislate on a subject and there is no conflict between the two Acts, then both Acts apply. **Section 13(1)** regulates names allowable to corporations and can apply to union public library boards (see also *Public Libraries Act, 1984*, s.5(3)). Names cannot be the same as another corporation's (i.e., another union public library board); cannot suggest a connection with Royalty without consent; and cannot be objectionable on any public grounds. **Section 126** specifies that boards are not to operate for profit. **Part IV (ss.228-271)** provides for the winding up of a corporation. **Section 274** refers to the scope and powers of a board: "A corporation, unless otherwise expressly provided in the Act ... creating it, has and shall be deemed to have had from its creation the capacity of a natural person and may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights." **Section 275** states that corporations have the power to have buildings and works or to buy and sell land for carrying on its objects. This is subject to *Public Libraries Act, 1984*, s.19. On the other hand, **s.276** specifies that a corporation is not to hold land unnecessary for the corporation's use, occupation or undertakings for more than seven years. **Section 279** requires that "A corporation shall have a seal which shall be adopted and may be altered or changed by by-law." **Section 280** states that the corporate seal is required for certain types of contracts. **Section 282** says that a document requiring authentication by a corporation may be signed by any director (board member) or by an authorized person, and need not be under seal. **Section 283** provides that no business of a corporation is to be transacted by its directors (board members) except at a meeting of directors at which a quorum of the board is present. Where there is a vacancy on the board, the board may exercise all its powers so long as a quorum remains in office. **Sections 286(4),(5)** require that directors be eighteen or more years of age and that they not be undischarged bankrupts. **Section 292** states that the acts of a director (board member) or of an officer (chief executive officer) are valid, notwithstanding any defect that may afterwards be discovered in his appointment or qualification. **Section 299** requires that minutes be kept of all meetings of directors and of executive committees. **Section 300** requires that corporations keep copies of all by-laws and special resolutions and registers of directors setting out name, address and calling for each director, with dates on which he became or ceased to be a director. **Section 302** requires that accounting records be kept, including records of

receipts, disbursements, sales, purchases, assets, liabilities and all other transactions affecting the financial position of the corporation. **Section 303** provides for penalties up to $1,000 or three months imprisonment, or both, for falsification of minutes, registers or accounts. **Section 304** requires that minutes, registers and accounts be kept at the corporation's head office. **Section 332** provides for fines of up to $200, except as otherwise provided in the Act, for failure of the corporation, its directors or officers, to comply with the provisions of the Act.

Corporations Information Act

R.S.O. 1980, c.96, as am. S.O. 1982, c.23; 1984, c.3.

Under **s.2**, public libraries may not carry on business or identify themselves to the public in Ontario by a name or style other than its corporate name unless the name or style is first registered with the Minister of Consumer and Commercial Affairs. The name must be set out in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued by or on behalf of the board. Under **s.14**, failure to do so may result in the board's not being able to uphold a contract in any court in Ontario.

County of Oxford Act

R.S.O. 1980, c.365, as am. S.O. 1982, c.25; 1983, c.5, s.13; 1983, c.66.

Section 138 establishes the apportionment of operating costs for the Oxford county library system.

Curry v. Lakeland Library Region (1980)

3 Sask.R. 364 (Q.B.).

The case involved the regional library board's dismissal of the North Battleford Library librarian for not cooperating with the region. A suit for wrongful dismissal was upheld.

Department of State Act

R.S.C. 1970, c.S-15.

Section 4(d) sets forth, in part, the powers of the Secretary of State, which include "relating to ... libraries, archives, historical resources."

District Municipality of Muskoka Act

R.S.O. 1980, c.121, as am. S.O. 1982, c.5; 1983, c.5, s.12; c.65.

This Act includes public library boards among the District's powers, but does not contain specific provisions for such boards.

Education Act

R.S.O. 1980, c.129, as am. S.O. 1981, c.47; ss.18-21; 1982, c.20, s.2; c.32; 1984, c.48; c.60.

Section 226 provides for rates for public libraries located in an unorganized territory which is covered by a school division.

Egress from Public Buildings Act

R.S.O. 1980, c.130.

Section 1 requires all outer doors and exit doors to assembly halls or school rooms be hinged to open outward and that gates be fastened open during the time the building is in use by the public. Penalties may include $50 plus $5 per week for continued contravention.

Elevating Devices Act

R.S.O. 1980, c.135.

This Act regulates the installation, operation and maintenance of elevating devices for safety purposes. It includes the lowering or raising of people or freight and such devices as elevators, escalators, and stage lifts, among others. **Ontario Regulation 229/81, s.23(1)** provides that records of tests and inspections of elevating devices are to be kept for at least three years from inspection date. **Section 29** of the Act requires that accidents involving licensed elevating devices be reported to the Minister of Consumer and Commercial Relations. The Director or Inspector may undertake appropriate investigation.

Emergency Plans Act, 1983

S.O. 1983, c.30.

If the Premier declares an emergency in an area, the powers and duties of the boards therein are subject to the direction and control of the Premier, or of a Minister he has designated, and the Premier may direct and control the body's administration, facilities and equipment to ensure the provision of necessary services in the area. **Section 11** provides protection from personal liability for board members or employees for acts done or neglected in good faith in an emergency, but clearly makes the board itself liable for such acts.

Employment Standards Act

R.S.O. 1980, c.137, as am. S.O. 1981, c.22, ss.1-3; 1983, c.55; 1984, c.31.

The Act covers various aspects of employment in great detail, although it specifies that the standards therein established are deemed minimum requirements only. The Act is amended almost on an annual basis, and the Regulations established under it change even more frequently. **Sections 10 and 11** concern wage records and specify such data as must appear on pay stubs or be maintained in employee wage records for periods of two years and five years. **Section 15** covers vacation pay. **Sections 17 and 18** provide for working hours, with a basic pattern of eight hours per day and a maximum of forty-eight hours per week. With approval, the daily hours may be extended from eight to twelve hours. **Section 22** requires that "no employee shall work longer than five consecutive hours without an eating period." **Section 23** establishes that a minimum wage shall be paid an employee (n.b., the rate of minimum wage is adjusted from time to time through Regulations under the Act). **Section 24** permits handicapped employees to be paid at a rate less than minimum wage under certain conditions. **Section 25** concerns overtime pay. **Section 26** establishes public holidays. **Section 29** requires that employees be given vacation with pay. **Section 33** provides for equal pay for equal work. **Section 34** is concerned with benefit plans. **Section 35** establishes the principle of pregnancy leave. **Section 40** provides for procedures in termination of employment. **Part XIV** of the Act specifies offences and associated penalties for contravening the Act. The 1981 amendments to the Act provide for cooperation by employers with the Ministry for rehiring and relocating employees, for wages during the period of notice of termination, and for procedures for terminating fifty or more employees at the cessation of a corporation's business. The 1983 amendments prohibit the use of lie detectors in processing applicants for employment; the 1984 amendments enable an employee to elect to be paid severance pay immediately upon the termination of employment or forfeit any right to recall or to elect to maintain the right of recall.

There are many Regulations under the Act. **R.R.O. 1980, Reg. 282** covers benefit plans, establishing the principle of "no differentiation" among employees for benefit plan payments in **ss.2-9**, and in **ss.8(c) and 10**, regulates the effect of pregnancy leave on benefit plans.

The General Regulations, **R.R.O. 1980, Reg. 285**, as am., contain definitions and a number of exemptions to the application of the Act. In **s.2**, high school students in a "work experience program authorized by the school board," community college students on work programs, inmates and offenders on work orders are exempted. **Section 3** covers further exemptions. **Section 4(b)** exempts those whose work is "supervisory or managerial in character" from the forty-eight hours per week requirement in **ss.17 and 18** of the Act. **Section 5** exempts students in recreational programs operated by charitable institutions and students supervising children from the minimum wage requirement. **Section 6** provides certain exemptions in regard to overtime pay. **Section 7** covers public holiday exemptions. **Section 12** provides for the determination of "regular rate or regular wages" as regards holidays and irregular schedules. The most recent adjustment to the minimum wage is provided by a 1983 amendment (O. Reg. 802/83) to the General Regulation.

The "Termination of Employment" Regulation, **R.R.O. 1980, Reg. 286** provides further conditions and procedures for termination of employment. **Sections 1-2** deal with lay-offs. **Sections 4-6** specify timing of notices of termination. The Regulation as amended (O. Reg. 495/83; 531/83; 301/84) sets further conditions for termination notices during the first thirteen weeks of employment and for UIC payments and work sharing programs.

Energy Act

R.S.O. 1980, c.139, as am. S.O. 1981, Sch., Item 4.

The Act regulates the distribution and use of hydrocarbon fuels, including installation, maintenance and use of appliances consuming oil, gas or propane. **Section 9** establishes procedures following accidents involving hydrocarbon fuels.

Excise Tax Act

R.S.C. 1970, c.E-13, as am. R.S.C. 1970 (2nd Supp.), c.10, s.65; S.C. 1970-71-72, c.62, ss.1-4; 1973, c.12; c.24; c.53, s.3; 1974-75, c.24, ss.1-21; 1974-75, c.62; 1976-77, c.6; c.15; 1977-78, c.42, ss.10-11; 1980-81-82-83, c.102, s.4; c.104, ss.1-15.

Section 46 sets out procedures for tax rebates under certain conditions: "Where materials have been purchased by or on behalf of . . . (b) any organization for use exclusively in the construction of a building for that organization that is to be used exclusively or mainly as a public library operated by or on behalf of that organization on a non-commercial basis, . . . and the tax imposed by Part V has been paid . . . the Minister may, upon application . . . within two years . . . pay to such institution, organization or corporation an amount equal to that tax."

Expropriations Act

R.S.O. 1980, c.148, as am. S.O. 1983, c.47.

This Act explicitly applies to the right of public libraries to acquire land with the consent of the appointing council (*Public Libraries Act, 1984*, s.19(2)). It provides procedures whereby a board may expropriate land required for its purpose. Under the *Public Libraries*

Act, 1984, a board may not expropriate land without the consent of the appointing council and, under the *Expropriations Act, s.5(1)(a)*, the council is the "approving authority." The procedures and powers set out in the Act are quite detailed.

Fire Marshalls Act

R.S.O. 1980, c.166, as am. S.O. 1981, c.8.

This Act prescribes procedures for fire prevention and safety. **Section 9** requires that the Fire Marshall be notified of a fire within three days.

The "Fire Code" (O. Reg. 730/81) specifies that all buildings and premises, unless under construction (and therefore covered by the Building Code) are covered by the provisions of the Fire Code. The Fire Code is meant to prevent fires as well as to develop emergency procedures. Penalties for failure to comply can result, for libraries, in a fine of up to $10,000. **Section 8** of the Regulation requires libraries to have a Fire Safety Plan which must include a) emergency fire procedures, including any procedures for evacuation and fire control, b) designation of supervisory staff who must be instructed in fire safety procedures to carry out fire duties, c) the holding of fire drills, and d) the control of fire hazards in the building. The plan must be approved by the Chief Fire Official. A copy must be posted in every floor area and supervisory staff must receive fire emergency procedures. **Part 6** of the Regulation requires that every library have portable fire extinguishers, specifies the number required, and provides for their installation, inspection, testing and maintenance. Inspections must take place monthly, and records must be kept of maintenance and testing for each extinguisher. (See also the Regulation "Industrial Establishment," R.R.O. 1980, Reg. 692, s.25, under the *Occupational Health and Safety Act*).

Gasoline Handling Act

R.S.O. 1980, c.185.

The Regulation under the Act, **O. Reg. 439, ss.9(6),10(8)**, requires that accidents involving the use or handling of gasoline be reported to the Ministry of Consumer and Commercial Affairs.

Health Disciplines Act

R.S.O. 1980, c.196, as am. S.O. 1983, c.59.

The Act defines practices and provides penalties relating to the illegal practice of dentistry, medicine, nursing, optometry and pharmacy. Libraries providing detailed advice for remedies and/or treatment in any of these areas may be in contravention of the Act.

Highway Traffic Act

R.S.O. 1980, c.198, as am. S.O. 1981, c.48, c.54, c.72; 1982, c.15, c.28; 1983, c.63; 1984, c.11, c.21, c.61.

This Act, which governs the general operation of motorized vehicles on Ontario roads, applies to any vehicle that a board might operate and to any driver that the board might employ. It covers such a broad range of matters that it is continually updated (nine amendments since 1980). The Regulations under the Act are numerous and are also amended frequently. Care must be exercised that one is examining the "latest law" in regard to highway traffic legislation.

Human Rights Code, 1981

S.O. 1981, c.53, as am. S.O. 1984, c.58 (See Appendix II for full text of Code).

This general legislation affects situations of employment, accommodation; defines harassment, etc.

International Letter-post Items Regulations

S.O.R./83-807.

These Regulations are made under the *Canada Post Corporation Act*, S.C. 1981, c.54, as am. S.C. 1983-84, c.21, s.72. **Section 15(g)** covers matters related to printed materials, and provides that printed papers shall bear no additions, indications or modifications except as provided for under third-class mail provisions.

Interpretation Act

R.S.O. 1980, c.219, as am. S.O. 1984, c.11, s.184.

Section 26 outlines basic powers of a corporation: to sue and be sued, to contract, to acquire and hold personal property or movables, and to bind other members of the board by majority vote. Individual members of the board are exempted from liability except where the creating Act is contravened. **Section 32** extends the interpretation section of the *Municipal Act* to include, among others, the *Public Libraries Act, 1984*.

Kerkhoff and Sons Contracting Ltd. v. XL Ironworks Co. (1983)

26 C.C.L.T. 1 (B.C.S.C.).

This case concerns a contractual dispute between a contractor and subcontractor over structural steel components for the Chilliwack Public Library in British Columbia.

Labour Relations Act

R.S.O. 1980, c.228, as am. S.O. 1983, c.42; 1984, c.34.

This Act governs the operations of unions and employers in Ontario and applies to public libraries when any of the employees have a collective agreement with the board. The area of labour law is vast and complex, so only certain sections of the Act are annotated here. The Act regulates the creation of bargaining units, and the negotiation and contents of collective agreements. Each library board should engage a lawyer to ensure that the intricate requirements of this area of the law are adhered to. **Section 3** states that "Every person is free to join a trade union of his own choice and to participate in its lawful activities." **Section 64** provides that employers are not to interfere with the formation, selection or administration of unions. **Section 66** states that employers are not to discriminate against or to refuse employment to a person because of membership in a union. **Section 71(a)** requires that employers not engage in strike-breaking misconduct or to hire professional strike-breakers. **Section 83** states that "Each party to a collective agreement shall, forthwith after it is made, file one copy thereof with the Minister [of Labour]." **Section 96** provides that contravention of this Act is an offence punishable by a fine of up to $1,000 for individuals and up to $10,000 for employers or unions. Continued contravention of an order, injunction, etc., constitutes a separate offence for each day the contravention continues.

Law Society Act

R.S.O. 1980, c.233, as am. S.O. 1982, c.60.

This Act defines the practice of law and provides for penalties for illegal practice of up to $1,000. Libraries providing advice in a manner which might be construed to constitute practice of the law may be in contravention of the Act.

Legislative Assembly Act

R.S.O. 1980, c.235, as am. S.O. 1981, c.29; 1982, c.43; 1983, c.50; 1984, c.36.

Section 9 establishes that Members of the Legislative Assembly may not serve as members of a public library board. A board member elected to the Legislative Assembly may remain on the board until the end of the day the election results are published in *The Ontario Gazette*, at which time the trustee is deemed to have resigned from the board.

Library of Parliament Act

R.S.C. 1970, c.L-7.

Establishes the Library of Parliament.

Lord's Day (Ontario) Act

R.S.O. 1980, c.253.

Section 3 permits municipalities to regulate theatrical and concert performances, moving pictures and lectures. *N.B.*, a similar Act, *One Day's Rest in Seven Act*, R.S.O. 1980, c.326, only applies to hotels, restaurants and cafes.

Ministry of Citizenship and Culture Act

S.O. 1982, c.6.

The Act establishes the Ministry of Citizenship and Culture, which is responsible for the administration of *The Public Libraries Act, 1984*. The functions of the Ministry are:

a) to encourage full, equal and responsible citizenship among the residents of Ontario;
b) recognizing the pluralistic nature of Ontario Society, to stress the full participation of all Ontarians as equal members of the community, encouraging the sharing of cultural heritage while affirming those elements held in common by all residents;
c) to ensure the creative and participatory nature of cultural life in Ontario by assisting in the stimulation of cultural expression and cultural preservation;
d) to foster the development of individual and community excellence, enabling Ontarians to better define the richness of their diversity and the shared vision of their community.

Section 9 provides that the Minister can, upon request, inspect any document or record relating to financial assistance given by the Ministry. The penalty for obstructing the Minister or a person acting under the Minister's authority to so inspect is a fine of up to $2,000 for persons and of up to $25,000 for corporations. **Section 11(c)** provides that the Minister can determine amounts of capital expenditures by a municipality for public library purposes which are financed through the Ontario Universities Capital Aid Corporation and must approve that Corporation's purchase of any municipal debentures issued for public library purposes.

Ministry of Municipal Affairs and Housing Act

1981, S.O. 1981, c.19.

Under the definitions of **s.1**, the word "municipality" includes a local board as defined in the *Municipal Affairs Act* (i.e., it includes a public library board).

Moosonee Development Area Board Act

R.S.O. 1980, c.294.

Schedule B permits the Moosonee Development Area Board to provide and maintain library services.

Municipal Act

R.S.O. 1980, c.302, as am. S.O. 1981, c.47, s.23; c.70, ss.23,24; 1982, c.24, c.40, c.50; 1983, c.5, s.1; c.8, s.16; c.41; 1984, c.48; c.56.

This Act is the basic template for local government in Ontario. It is complex and frequently amended. **Section 13(4)** provides that if a municipality is divided or re-divided into wards, the Ontario Municipal Board (OMB) can require representation on a public library board according to wards as the OMB considers necessary. **Section 25(2)** establishes certain procedures for the dissolution of a public library board, including a council by-law, public hearing and possibly a vote. **Section 48** provides that if a local board cannot meet for two months due to the lack of a quorum, the Minister of Municipal Affairs and Housing may declare all seats vacant. This section may not apply to public library boards. **Section 71(17)** requires that a public library board furnish its board of control with estimates on or before the first of March each year. **Section 88** requires that a board submit to council statements audited by a person appointed under this section of the Municipal Act. (See also, *Public Libraries Act, 1984*, s.24(7)). **Section 94(7)** provides that the Treasurer and every other officer of a board may be required, before entering the duties of an office, to give security with the premiums for such to be paid by the board. Each year before February 15th, the board must require to see such a bond. **Section 100** establishes that a board's retirement allowance to employees be granted in accordance with this section of this Act and with the approval of the appointing council. (See also, *Public Libraries Act, 1984*, s.22(2)). **Section 164(1)** requires that county library estimates, as approved by council, be included in the amount required by the county under this section of the Act. (See also, *Public Libraries Act, 1984*, s.26(1)). **Sections 208(46),(47)** permit the council to make by-laws for employee pensions. By-laws must be approved by the Ministry of Municipal Affairs and Housing. A board shall deduct as required for the plan (e.g. OMERS). (See also, *Public Libraries Act, 1984*, s.22(2),(3)). **Section 208(47)(c)** provides that a public library board may establish a plan of sick leave gratuities for employees, so long as upon termination no employee is entitled to more than the lesser amount of either, a) salary wages for one-half the number of days standing to credit, or b) one-half year's wages at the time of termination. **Section 208(48)(b)** permits a public library board to provide employees with insurance for hospital, medical, surgical, nursing or dental services, as outlined in s.48(i)(ii)(iii) of the Act. **Section 49(b)** permits a board to pay part or all of OHIP. **Section 208(50)(b)** permits public library boards to insure employees. **Section 210(157)** permits council to pass by-laws in respect to lending libraries for profit. **Sections 238-251** provide that council may, by by-law, remunerate or pay the expenses of members it appoints to a board (i.e., every trustee under the *Public Libraries Act, 1984*, s.9). The board itself cannot remunerate trustees except the chairman or vice-chairman and only to an amount es-

tablished by council – although it can supplement other remunerations. Such payments must be reported by the board to the council by the board Treasurer before February 28th of each year. Under **s.247**, the council or board may purchase insurance. **Section 347(1)(b)** provides for by-laws passed by trustees of a police village with respect to the "granting of land in aid of public libraries, and may grant money to such public libraries." **Section 357(6)** requires that in an improvement district, the trustees who act as council and are appointed by cabinet will be the public library board.

By **s.208** of the Act, the "Pension Plan for Municipal Employees" Regulation (R.R.O. 1980, Reg. 678) applies to pensions for employees. (See also the *Public Libraries Act, 1984*, s.22(2)).

Municipal Affairs Act

R.S.O. 1980, c.303, as am. S.O. 1984, c.48.

Section 1(f) defines a "municipality" and states that a municipality includes local boards. Public library boards are explicitly included under the definition of "local boards." **Section 3** provides that the Ministry of Intergovernmental Affairs can regulate the various bookkeeping, accounting, auditing, etc. systems of municipalities (and, therefore for this Act, of public library boards). **Section 3(i)** permits the Ministry of Intergovernmental Affairs to investigate public library boards. **Section 5** provides that the Ministry of Intergovernmental Affairs may require a municipality to notify all persons on the collector's roll of payments to the municipality and to local boards (including public library boards). If the municipality fails to comply, the Treasurer of Ontario may withhold that municipality's provincial grants. **Section 9(2)** permits the Ministry to order an audit of a public library board, by means of a Ministry auditor or by one so appointed. **Section 57** establishes that the OMB and the Ministry of Intergovernmental Affairs have access at all times to all books, records, papers and documents of a public library board, and may inspect, examine, audit and copy them or any part thereof. **Part III** of the Act gives the OMB the power to transfer to the Ministry of Intergovernmental Affairs control over a municipality in default of debt payments. Such control would include control over a municipal public library board, among others.

The "Municipal Auditors" Regulation, **R.R.O. 1980, Reg. 680**, provides for the licensing and regulation of municipal auditors. Licenses are issued in four classes and allow auditors to serve different sizes of municipalities.

Municipal Boundary Negotiations Act, 1981

S.O. 1981, c.70, as am. S.O. 1982, c.33.

Section 14 provides that as a result of negotiation regarding disputes over municipal boundaries, the Cabinet may order that a board provide services to a neighbouring municipality; may adjust the board's assets or liabilities; may create, amalgamate or dissolve a board; may order a board to pay money; and may alter the composition and term of office of the board.

Municipal Conflict of Interest Act, 1983

S.O. 1983, c.8, as am. S.O. 1984, c.55 (See Appendix III for full text of Act).

This Act provides for procedures whereby members of a public library board must remove themselves from discussion (and, in meetings not open to the public, from the meeting room) if they or their parent, spouse or child has a pecuniary interest in the matter under

discussion. Under **s.1**, the definitions of parent, spouse and child are quite broad. **Section 2** defines an indirect pecuniary interest. **Section 4** outlines pecuniary interests which it is not necessary to disclose. **Section 5** outlines duties of board members to disclose pecuniary interests in matters under consideration, and to remove themselves from the discussion. **Section 6** requires that every conflict of interest disclosure be recorded in the minutes. **Sections 8-13** provide that an alleged contravention of the duty to disclose a conflict of interest be tried by a judge. Contravention will result in dismissal from a library board and/or, if the member is no longer a board member, in disqualification from being a board member for a period of seven years. If the contravenor acquired personal gain, restitution may be ordered. The matter decided by the board may be made void by the board within two years, unless such action would adversely affect the rights of an innocent party. **Section 14** permits a library board to purchase insurance to protect a member who has been charged with contravention of the conflict of interest guidelines and who has been found not guilty of such contravention.

Municipal Grants Act

R.S.C. 1970, c.M-15, as am. S.C. 1983-84, c.18, ss.207, 208.

This Act provides for grants to municipalities in respect of federal property. **Section 2** excludes public libraries located on federal land or in federal buildings from "federal property" for purposes of this Act.

Municipal Tax Assistance Act

R.S.O. 1980, c.311, as am. S.O. 1984, c.45.

Section 3 states that "This Act does not apply to . . . provincial property used for . . . museums and libraries."

Municipality of Metropolitan Toronto Act

R.S.O. 1980, c.314, as am. S.O. 1981, c.73; 1982, c.29; 1983, c.5; c.9; c.14; c.39; c.56, s.10; 1984, c.10; c.18; c.57.

Section 148 establishes the Metropolitan Toronto Library Board, which is deemed a special library service board under the *Public Libraries Act, 1984, s.40(3).*

Museums and Other Exhibitors Import Regulations

C.R.C., c.539.

This federal regulation, made under the *Customs Tariff Act*, R.S.C. 1970, c.C-41, as am., provides that articles imported by or for public libraries, that are to be exhibited within a public library, shall be admitted to entry into Canada under tariff item 69305 of Schedule A of the *Customs Tariff Act*, if accompanied by the designated form. That is, such items will be tariff free.

National Library Act

R.S.C. 1970, c.N-11, as am. S.C. 1976-77, c.24, s.73; c.28, s.30; 1980-81-82-83, c.17, s.18.

This Act establishes the National Library of Canada.

The **National Library Book Deposit Regulations**, C.R.C., c.1109, provide detailed regulations for the deposit of published materials with the National Library. It includes exemptions for, among others, calendars, colouring books, and microfilms.

Nickell v. Windsor (1926)

59 O.L.R. 618 (C.A.), also at [1927] 1 D.L.R. 379.

A 1926 case in which the library board was held liable for negligence after a patron sustained injury by a fall upon icy library steps.

Occupational Health and Safety Act

R.S.O. 1980, c.321.

Sections 7(7),8(9) provide that in the event of an accident in any workplace causing death or critical injury, the accident will be investigated by a health and safety representative or by a health and safety committee member. Public libraries are not required to maintain health and safety committees. **Section 14(2)** specifies duties of employees as regards health and safety in the workplace. **Section 25** requires that an accident at any workplace causing death or critical injury be reported immediately by telephone and within forty-eight hours in writing. The scene of such accident is not to be disturbed until permission is obtained from the Inspector (except to save life).

The Regulation, "Industrial Establishments," R.R.O. 1980, Reg. 692, applies to public libraries and requires that workers in or about the workplace be fourteen years of age or older. **Section 25** concerns fire extinguishers and fire safety. (See also, O. Reg. 730/81, Part 6, "Fire Code."). **Section 135** requires that a library provide an area suitable for eating when in the workplace there are more than thirty-five workers.

The Ontario Heritage Act

R.S.O. 1980, c.337.

The Regulation ("Grants for Museums," O. Reg. 398/81, as am. 729/81; 224/83; 417/84) under this Act, permits a public library board which operates a museum, as defined in the Regulation, to apply for a grant under the terms of the Regulation.

Ontario Municipal Board Act

R.S.O. 1980, c.347, as am. S.O. 1982, c.40, s.6; 1984, c.11, s.199.

Under **ss.64-65**, when a board applies to council to raise funds by debenture (pursuant to the *Public Libraries Act, 1984*, s.25), the board cannot authorize the undertaking for which the debentures would be authorized until OMB approval has been obtained. The council may not pass a by-law authorizing the undertaking until OMB approval has been received.

Ontario Municipal Employees Retirement System Act

R.S.O. 1980, c.348.

Under this Act, public library boards may participate in the OMERS retirement scheme for their employees. Specifics of the OMERS operations are governed by detailed regulations under this Act.

Ontario Youth Employment Act

R.S.O. 1980, c.362.

Under **ss.1(a)-(f)**, public library boards are not eligible employers for programs under this Act.

Owen Sound Public Library Board v. Mial Developments Ltd., (1979)

102 D.L.R.(3d) 685 (Ont. C.A.).

This case concerns a breach of contract dispute.

Pension Benefits Act

R.S.O. 1980, c.373, as am. S.O. 1983, c.2.

This Act requires employers (including public library boards), who belong to or establish a pension plan for employees under which the employer must contribute to the plan, to register such plans with the Pension Commission of Ontario. Under **s.20**, pension plans must provide that employees with ten years continuous service with the board (or ten years membership in the plan) and who are forty-five years of age are entitled to pension benefits upon retirement, based on their contributions. Such employees, upon termination of employment with the board or termination of membership, cannot receive a refund of their contributions (except voluntary additional contributions). **Section 23** provides that contributions to a pension plan deducted from an employee's pay or otherwise received by a board from the employee are deemed to be held by the board in trust for the employee and the pension plan has a lien on the funds. If the board must contribute an amount equal to the board's due but unpaid contributions, the amount is deemed to be held by the board in trust for the members of the pension plan.

The General Regulation, **R.R.O. 1980, Reg. 746, as am. O. Reg. 101/81; 262/82; 73/84; 620/84**, provides detailed regulation for pension plans. In the Regulation, the word "government" includes library boards. **Section 23** of the Regulation provides for the information an employer must provide an employee every three years.

Privacy Act

See *Access to Information Act*, S.C. 1980-81-82-83, c.111.

Private Investigator and Security Guards Act

R.S.O. 1980, c.390.

Under **ss.2(c),(h)**, this Act, which provides for the licensing and regulation of security guards, does not apply to the Corps of Commissionaires or to employees of a library board.

Provincial Land Tax Act

R.S.O. 1980, c.399, as am. S.O. 1982, c.18.

Under **s.3(1),para. 17**, land situated in territory without municipal organization, which is owned or controlled by a board, is not liable to assessment and taxation under this Act unless occupied by a tenant or lessee who is liable for taxation under the Act.

Public Authorities Protection Act

R.S.O. 1980, c.406.

Under **s.11(1)**, no action, prosecution or other proceeding lies or shall be instituted against any person for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, unless it is commenced within six months next after the cause of action arose, or, in case of continuance of injury or damage, within six months after the ceasing thereof. **Section 15** provides that the Act does not apply to municipal corporations.

Public Commercial Vehicles Act

R.S.O. 1980, c.407, as am. S.O. 1981, c.71; 1983, c.79; 1984, c.20.

This Act regulates commercial vehicles on highways, streets, etc., when goods are transported for compensation. Penalties are provided for such transportation of goods without a license.

Public Halls Act

R.S.O. 1980, c.408.

This Act regulates all public halls not covered by the *Theatres Act*, whether in permanent or portable buildings or in tents, which have seating for more than one hundred persons. Licenses are required, and penalties of fines from $50 to $500 and/or six months imprisonment are set.

Public Transportation and Highway Improvement Act

R.S.O. 1980, c.241, as am. S.O. 1981, c.68; 1983, c.8, s.19.

Under this Act, the Minister of Transportation and Communications may authorize boards to use or build in spaces over, across or under a highway. **Section 30** requires that a board not injure, destroy, cut or prune any tree within the limits of the King's Highway without permission in writing from the Ministry of Transportation and Communications. Conviction of a contravention will result in a fine of not less than $10 per tree and not more than $100 per tree, as well as liability for damages.

Public Vehicles Act

R.S.O. 1980, c.425, as am. S.O. 1983, c.62.

This Act covers, among other things, licenses for buses, car pool vehicles, and compensation for transportation. **Section 2(2)** states that "No person shall arrange or offer to arrange the transportation of passengers by means of a public vehicle operated by another person unless that other person is the holder of an operating license authorizing him to perform the transportation."

Public Works Protection Act

R.S.O. 1980, c.426.

This Act includes "any municipal public buildings" in the definition of "public work" and so may apply to public library buildings. It provides for the placing of guards for the protection of public buildings upon appointment by, among others, the board chairman. Such guards have the powers of a peace officer and may require that persons attempting to enter the building identify themselves or submit to a search without a search warrant. The guards may refuse permission to enter and use such force as is necessary to prevent entrance.

Rates of Postage Regulations

S.O.R./83-64.

This federal Regulation, made under the *Canada Post Corporation Act*, S.C. 1981, c.54, as am. S.C. 1983-84, c.21, s.72, sets out rates for books (Schedule III) as defined in the *Third Class Mail Regulations*, S.O.R./78-899, and for library books (Schedule III) as defined in the *Special Services and Fees Regulations*, C.R.C., c.1296.

Re Aurora Public Library Board and Town of Aurora (1980)

29 O.R.(2d) 50 (Div. Ct.), also available at 111 D.L.R.(3d) 757.

The case concerns a dispute between the library board and council over salary increases to librarians. It is based on an interpretation of a section of the *Public Libraries Act*, R.S.O. 1980, c.414, which has been changed in the *Public Libraries Act, 1984*.

Re King Township Library Board and Township of King (1977)

7 O.M.B.R. 1 (Div. Ct.).

The case concerns procedural questions regarding the library's application to the OMB for property re-zoning.

Re Les Pères Blancs Missionaires d'Afrique and City of Vanier (1984)

45 O.R.(2d) 686 (Div. Ct.).

The case concerns expropriation of institutional property by the city for use, in part, for a public library. The argument concerned the compensation awarded.

Re MacDonald

[1971] 2 O.R. 577 (H.C.J.), also available at 18 D.L.R.(3d) 521.

The case concerns the construing of a will. The condition of a gift to the library board in a will was held to have no effect since it was impossible to comply with the condition.

Re City of Toronto and Metropolitan Toronto Library Board (1975)

4 O.M.B.R. 120.

The case concerns a problem with re-zoning the proposed site of the Metropolitan Library to permit demolition of a designated historical building.

Re Town of Halton Hills Public Library Building (1978)

8 O.M.B.R. 334.

The case concerns the city's application to the OMB for approval of a capital expenditure to build a new library at a cost $100,000 higher than previously approved by the OMB. The extra expenditure was not approved.

Re Township of Scugog Restricted Area By-Law 77-79 (No. 2)(1982)

12 O.M.B.R. 22.

The case resulted in the OMB approving re-zoning of parklands to allow the building of a new library, despite a petition of 3,000 signatures to the contrary.

Regina v. **Jacobson** (1972)

9 C.C.C.(2d) 59 (Ont. C.A.).

This case upholds a ruling that a theft of a book from the Cambrian College Library in Sault Ste. Marie is a trifling matter and quashes the conviction for theft under $50, as "the law does not concern itself with trifling matters."

Regional Municipality of Durham Act

R.S.O. 1980, c.434, as am. S.O. 1982, c.26, ss.81-89; c.49, ss.1-3; 1983, c.5, s.10; c.56, s.1; c.72, ss.1-7.

Under **s.154**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Durham.

Regional Municipality of Haldimand-Norfolk Act

R.S.O. 1980, c.435, as am. S.O. 1982, c.26, ss.90-98; c.49, ss.4,5; 1983, c.5, s.11; c.56, s.2; c.72, ss.8-13; 1984, c.46.

Under **s.135**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Haldimand-Norfolk.

Regional Municipality of Halton Act

R.S.O. 1980, c.436, as am. S.O. 1981, c.66, Sch., Item 14; 1982, c.26, ss.63-71; c.49, ss.6-9; 1983, c.5, s.8; c.56, s.3; c.72, ss.14-19.

Under **s.146**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Halton.

Regional Municipality of Hamilton-Wentworth Act

R.S.O. 1980, c.437, as am. S.O. 1982, c.26, ss.72-80; c.49, ss.10,11; 1983, c.5, s.9; c.13; c.56, s.4; c.72, ss.20-25.

Under **s.156**, the Minister "may by order do all such things as may be necessary to re-establish the Wentworth County Library." Under **s.159**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Hamilton-Wentworth.

Regional Municipality of Niagara Act

R.S.O. 1980, c.438, as am. S.O. 1982, c.26, ss.15-25; c.49, ss.12,14; 1983, c.5, s.3; c.56, s.5; c.72, ss.26-32.

Under **s.172(1),(2)**, this Act dissolves the Welland County Library Cooperative and invests its assets and liabilities in the Welland County Board of Education.

Regional Municipality of Ottawa-Carleton Act

R.S.O. 1980, c.439, as am. S.O. 1982, c.26, ss.1-4; c.49, ss.15-21; 1983, c.5, s.2; c.72, ss.33-36.

This Act includes public library boards in its powers, but does not contain specific provisions for such boards.

Regional Municipality of Peel Act

R.S.O. 1980, c.440, as am. S.O. 1982, c.26, ss.54-62; c.49, ss.22-25; 1983, c.5, s.7; c.56, s.6; c.72, ss.37-42.

Under **s.141**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Peel.

Regional Municipality of Sudbury Act

R.S.O. 1980, c.441, as am. S.O. 1982, c.26, ss.45-53; c.49, ss.24,25; 1983, c.5, s.5; c.56, s.7; c.72, ss.43-50; 1984, c.47.

Under **s.122(2)**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Sudbury.

Regional Municipality of Waterloo Act

R.S.O. 1980, c.442, as am. S.O. 1982, c.26, ss.35-44; c.49, ss.26-29; 1983, c.4; c.5, s.6; c.56, s.8; c.72, ss.51-55.

Under **s.163(4)**, "The Regional Council shall for the purposes of the *Public Libraries Act* be deemed to be a board of a county library." Under **s.175**, the Minister may establish a public library board in any area municipality within the Regional Municipality of Waterloo.

Regional Municipality of York Act

R.S.O. 1980, c.443, as am. S.O. 1982, c.26, ss.26-34; c.49, ss.30-32; 1983, c.5, s.4; c.56, s.9; c.72, ss.56-61.

This Act includes public library boards in its powers, but does not contain specific provisions for such boards.

Retail Sales Tax Act

R.S.O. 1980, c.454, as am. S.O. 1981, c.38; 1982, c.36; 1983, c.27; c.48; c.81.

Section 5(1) exempts certain classes of tangible personal property and of personal services from taxation under the Act. **Para. 51** exempts publications purchased by a public library, but "publication" is defined in the Regulations to include only films, filmstrips, audio tapes and disks, video tapes and disks of an educational nature purchased for its own use and not for commercial exhibition for profit (R.R.O. 1980, *Reg. 903*, as am. O. Reg. 568/83, s.1(11)). **Para. 53 and 54** exempt books (as defined by the Regulations) and newspapers. **Para. 55** exempts magazines (as defined by the Regulations) that are purchased by subscription. Also, two classes of exemption (*para. 45*, in part, and *para. 70*) are not available for public library boards. **Section 8** establishes that every vendor is an agent of the Minister and as such, shall levy and collect the taxes imposed by this Act upon the purchaser or consumer.

Shawinigan Hydro-Electric Co. v. **Shawinigan Water and Power Co.** (1912)

45 S.C.R. 585.

This 1912 case was cited in *Hydro-Electric Power Commission of Ontario* v. *County of Grey* (1924), 55 O.L.R. 339 (C.A.), with the comment, "I think the principle to be gathered from *Shawinigan* . . . is that the intention of the legislature to enable any public body to invade the province of another public body must be clearly expressed and will not be implied."

Statistics Act

S.C. 1970-71-72, c.15, as am. S.C. 1976-77, c.28, s.41; 1980-81-82-83, c.47, s.41.

Under **s.16(3)(e)**, "The Chief Statistician may, by order, authorize the following information to be disclosed . . . information relating to any . . . library."

Statutory Instruments Act

S.C. 1970-71-72, c.38, as am. S.C. 1974-75, c.20, s.24; 1976-77, c.28, s.42; 1980-81-82-83, c.111, Sch. IV, ss.6,7.

The Regulations under this Act, *Statutory Instruments Regulations*, C.R.C. 1978, c.1509, s.19 and Sch. 1, s.10, provide that copies of Part II and Part III of the *Canada Gazette* shall . . . be delivered without charge to . . . the chief librarian of each public library in Canada. See also, *Canada Gazette (1978) Special Issue Regulations* and *Consolidated Regulations Delivery Regulations*, both of which are made under this Act but are treated as separate entries in this citator.

Statutory Powers Procedures Act

R.S.O. 1980, c.484.

Under **s.1**, public library boards which are party to proceedings regarding the exercise of a statutory power of decision are deemed to be persons for the purposes of this Act. This Act establishes procedures which must be followed by certain boards and tribunals when they make decisions affecting persons' rights.

Story v. **The City of Prince George** (1979)

11 B.C.L.R. 224 (S.C.).

This case concerns an action against the City of Prince George by a library patron who fell in an icy lane outside the library. The action was dismissed.

Theatres Act

R.S.O. 1980, c.498, as am. S.O. 1984, c.56.

The 1984 amendments to this Act came into force on February 4, 1985. The Act regulates the operation of "theatres" (which, under **s.10**, would not include public library premises or rooms unless used primarily for film exhibition). It also regulates the general distribution, exhibition and approval of films. Under **s.1(a),(b) and 3(5)(a)**, the Theatres Act creates the Ontario Film Review Board, which has power to regulate the exhibition and distribution of films (including videotapes). The definition of "distribution" demands distribution for direct or indirect gain, and so should not apply to free library film service; "exhibition," however, does include library viewings by the public. **Section 4** provides for inspectors appointed by cabinet, who have the power to inspect premises where film (including videotapes) are exhibited. Inspectors also have the power to confiscate a projector or film that is used contrary to this Act. Under **s.6**, such confiscations are subject to review. **Section 38** provides that a film (including videotape) is not to be exhibited unless it has been approved by the Ontario Film Review Board and must be exhibited in accordance with any conditions thereto. Under **s.53**, a license is required for projection equipment if the film is exhibited in premises which are not licensed as a theatre. Such a license may be refused or revoked under the terms of **s.55**. As of the date of writing, the Ministry of Consumer and Commercial Relations had not decided whether they will exempt public libraries from this requirement. Such an exemption would appear in the regulations under the *Theatres Act*.

Third Class Mail Regulations

S.O.R./78-899.

Under **s.4(g)** of the Regulation (made under the *Canada Post Corporation Act*, S.C. 1981, c.54, as am. S.C. 1983-84, c.21, s.72), third class mail shall contain no additions, indications or modifications, except:

i) the title of the work,
ii) the number of copies asked for or sent,
iii) the name of the author and publisher,
iv) the catalogue number,
v) the number of days allowed for reading, and
vi) the name of the person wishing to consult the work in question.

Trees Act.

R.S.O. 1980, c.510.

This Act regulates conservation and municipal reforestation programs, among other things. It covers municipal by-laws which may affect the planting or removal of trees within municipal boundaries.

Workers Compensation Act

R.S.O. 1980, c.539, as am. S.O. 1981, c.30; 1982, c.61; 1983, c.45; 1984, c.38; c.58.

This Act provides for compensation to injured workers or, in the event of death, their dependents. Public libraries are "Schedule 1" employers, which means that they are required to contribute to the Workers Compensation Board Accident Fund, based on payroll. **Section 1(1)(a)** defines "accident" for this Act. Under **s.(3)(c)**, the exercise and performance of the powers and duties of a public library board is deemed to be its trade or business. **Section 4** specifies

contributions to the Accident Fund required of Schedule 1 employers. **Section 20** requires that employees report accidents immediately. **Section 91(4)** states that failure to comply with regulations regarding first aid may result in additional contributions due to the Accident Fund. **Section 97** provides for the library, as an employer, to provide statements of wages earned by workers in the previous year and amounts estimated to be earned in the current year (in order to determine Workers Compensation Board pensions). Failure to provide this information makes the library liable for fines of up to $500, plus payment of additional amounts assessible, plus interest. **Section 121** states that accidents which disable a worker from earning full wages, or which necessitate medical aid, must be reported to the Workers Compensation Board within three days of the library hearing of the accident. Failure to so report may attract fines of up to $200.

The "First Aid Requirements," R.R.O. 1980, Reg. 950, as am. O. Reg. 525/83 includes **s.3** which provides that the library must keep posted in conspicuous places the poster known as Form 82, regarding the necessity of reporting all accidents and receiving first aid treatment. **Section 5** requires the library to keep records of all circumstances respecting an accident. **Section 6** requires the library to inspect first aid boxes at not less than quarterly intervals and to record the inspection by marking the inspection card. **Sections 8-11** cover first aid requirements for libraries which employ various numbers of workers (i.e., s.8, for up to five employees; s.9, for six to fifteen employees, etc.). The General Regulation, **R.R.O. 1980, Reg. 951, s.10**, requires that the library post and keep posted in conspicuous places whatever cards, etc., are supplied by the Workers Compensation Board.

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APPENDICES

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Abbreviations

A.R.	*Alberta Reports*, vol. 1 (1977-)
as am.	as amended
B.C.L.R.	*British Columbia Law Reports*, vol. 1- (1977-)
B.C.S.C.	British Columbia Supreme Court
c.	chapter
C.A.	Court of Appeal
C.C.C.(2d)	*Canadian Criminal Cases, Second Series*, vols. 1-70 (1971-1983)
C.C.L.T.	*Canadian Cases on the Law of Torts*, vol. 1- (1976-)
C.R.C.	*Consolidated Regulations of Canada*. A 1978 consolidation of federal regulations to that date. Amendments to the C.R.C. are found in *The Canada Gazette, Part II*.
Div. Ct.	Divisional Court
D.L.R.(3d)	*Dominion Law Reports, Third Series*, vol. 1-(1969-)
H.C.J.	High Court of Justice. In Ontario, the trial division of the Supreme Court of Ontario.
O. Reg.	Ontario Regulation. Usually followed by the sequential number of the Regulation, a slash, then the last two digits of the year in which the Regulation was made (e.g., O. Reg. 750/81).
O.L.R.	*Ontario Law Reports*, vols. 1-66 (1901-1931)
O.M.B.	Ontario Municipal Board
O.M.B.R.	*Ontario Municipal Board Reports*, vol. 1- (1973-)
O.M.E.R.S.	Ontario Municipal Employees Retirement System
Ont. C.A.	Ontario Court of Appeal
O.R.	*Ontario Reports*, 1931-1973
O.R.(2d)	*Ontario Reports, Second Series*, vol. 1- (1974-)
Q.B.	Queen's Bench
Reg.	regulation
R.R.O.	*Revised Regulations of Ontario*. A cumulation of Ontario Regulations in force which incorporates all previous amendments. The most recent *R.R.O.* was printed in 1980.
R.S.C.	*Revised Statutes of Canada*. A cumulation of federal Acts in force which incorporates all previous amendments. The latest R.S.C. is dated 1970.
R.S.O.	*Revised Statutes of Ontario*. A cumulation of Ontario Acts; the most recent is dated 1980.
s.	section
Sask.R.	*Saskatchewan Reports*, vol. 1- (1980-)
S.C.	*Statutes of Canada*. These are printed to correspond with sessions of Parliament and generally are followed by the years of the relevant session (e.g., S.C. 1980-81-82-83).
S.C.	Supreme Court. These initials are found in parentheses after a citation of a case, indicating that the Supreme Court heard the case.
Sch.	schedule

S.C.R. *Supreme Court Reports*

S.C.T.D. Supreme Court Trial Division

S.O. *Statutes of Ontario.*

S.O.R. *Statutory Orders and Regulations.* Federal Regulations made after the C.R.C. (1978), whether they amend a C.R.C. Regulation or constitute a new Regulation altogether, are labelled sequentially each year and prefaced with S.O.R. and the year (e.g., S.O.R./79-613).

ss. sections (plural)

Human Rights Code, 1981

Statutes of Ontario, 1981
Chapter 53

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Office Consolidation
This edition is prepared for purposes of convenience only, and for accurate reference recourse should be had to the statutes.

Preamble

WHEREAS recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

AND WHEREAS it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

AND WHEREAS these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

FREEDOM FROM DISCRIMINATION

Services

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

Accommodation

2.—(1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status, handicap or the receipt of public assistance.

Harassment in accommodation

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, marital status, family status, handicap or the receipt of public assistance.

Contracts

3. Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

Employment

4.—(1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, record of offences, marital status, family status or handicap.

Harassment in employment

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or handicap.

Vocational associations

5. Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

Harassment because of sex in accommodation

6.—(1) Every person who occupies accommodation has a right to freedom from harassment because of sex by the landlord or agent of the landlord or by an occupant of the same building.

Harassment because of sex in workplaces

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.

Sexual solicitation by a person in position to confer benefit, etc.

(3) Every person has a right to be free from,

(*a*) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(*b*) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

Reprisals

7. Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

Infringement prohibited

8. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

PART II

INTERPRETATION AND APPLICATION

Interpretation

9. In Part I and in this Part,

(*a*) "age" means an age that is eighteen years or more, except in subsection 4 (1) where "age" means an age that is eighteen years or more and less than sixty-five years;

(*b*) "because of handicap" means for the reason that the person has or has had, or is believed to have or have had,

(i) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, including diabetes mellitus, epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a dog guide or on a wheelchair or other remedial appliance or device,

(ii) a condition of mental retardation or impairment,

(iii) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language, or

(iv) a mental disorder;

(*c*) "equal" means subject to all requirements, qualifications and considerations that are not a prohibited ground of discrimination;

(*d*) "family status" means the status of being in a parent and child relationship;

(*e*) "group insurance" means insurance whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an association or an employer or other person;

(*f*) "harassment" means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;

(*g*) "marital status" means the status of being married, single, widowed, divorced or separated and includes the status of living with a person of the opposite sex in a conjugal relationship outside marriage;

(*h*) "record of offences" means a conviction for,

R.S.C. 1970, c. 12 (1st Supp.)

(i) an offence in respect of which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or

(ii) an offence in respect of any provincial enactment;

(*i*) "services" does not include a levy, fee, tax or periodic payment imposed by law;

(*j*) "spouse" means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage.

Constructive discrimination

10. A right of a person under Part I is infringed where a requirement, qualification or consideration is imposed that is not discrimination on a prohibited ground but that would result in the exclusion, qualification or preference of a group of persons who are identified by a prohibited ground of discrimination and of whom the person is a member, except where,

(*a*) the requirement, qualification or consideration is a reasonable and *bona fide* one in the circumstances; or

(*b*) it is declared in this Act that to discriminate because of such ground is not an infringement of a right.

Discrimination because of association

11. A right under Part I is infringed where the discrimination is because of relationship, association or dealings with a person or persons identified by a prohibited ground of discrimination.

Announced intention to discriminate

12.—(1) A right under Part I is infringed by a person who publishes or displays before the public or causes the publication or display before the public of any notice, sign, symbol, emblem, or other similar representation that indicates the intention of the person to infringe a right under Part I or that is intended by the person to incite the infringement of a right under Part I.

Opinion

(2) Subsection (1) shall not interfere with freedom of expression of opinion.

Special programs

13.—(1) A right under Part I is not infringed by the implementation of a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under Part I.

Review by Commission

(2) The Commission may,

(*a*) upon its own initiative;

(*b*) upon application by a person seeking to implement a special program under the protection of subsection (1); or

(*c*) upon a complaint in respect of which the protection of subsection (1) is claimed,

inquire into the special program and, in the discretion of the Commission, may by order declare,

(*d*) that the special program, as defined in the order, does not satisfy the requirements of subsection (1); or

(*e*) that the special program as defined in the order, with such modifications, if any, as the Commission considers advisable, satisfies the requirements of subsection (1).

Reconsideration

(3) A person aggrieved by the making of an order under subsection (2) may request the Commission to reconsider its order and section 36, with necessary modifications, applies.

Effect of order

(4) Subsection (1) does not apply to a special program where an order is made under clause (2) (*d*) or where an order is made under clause (2) (*e*) with modifications of the special program that are not implemented.

Subs. (2) does not apply to Crown

(5) Subsection (2) does not apply to a special program implemented by the Crown or an agency of the Crown.

Age sixty-five or over

14. A right under Part I to non-discrimination because of age is not infringed where an age of sixty-five years or over is a requirement, qualification or consideration for preferential treatment.

Canadian Citizenship

15.—(1) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship is a requirement, qualification or consideration imposed or authorized by law.

Idem

(2) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or lawful admission to Canada for permanent residence is a requirement, qualification or consideration adopted for the purpose of fostering and developing participation in cultural, educational, trade union or athletic activities by Canadian citizens or persons lawfully admitted to Canada for permanent residence.

Idem

(3) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or domicile in Canada with the intention to obtain Canadian citizenship is a requirement, qualification or consideration adopted by an organization or enterprise for the holder of chief or senior executive positions.

Handicap

16.—(1) A right of a person under this Act is not infringed for the reason only,

(*a*) that the person does not have access to premises, services, goods, facilities or accommodation because of handicap, or that the premises, services, goods, facilities or accommodation lack the amenities that are appropriate for the person because of handicap; or

(*b*) that the person is incapable of performing or fulfilling the essential duties or requirements attending the exercise of the right because of handicap.

Powers of Commission

(2) Where, after the investigation of a complaint, the Commission determines that the evidence does not warrant the appointment of a board of inquiry because of the application of subsection (1), the Commission may nevertheless use its best endeavours to effect a settlement as to the provision of access or amenities or as to the duties or requirements.

Special interest organizations

17. The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, is not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified.

Separate school rights preserved

1867, c. 3

R.S.O. 1980, c. 129

18.—(1) This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under *The British North America Act, 1867* and the *Education Act*.

Duties of teachers

(2) This Act does not apply to affect the application of the *Education Act* with respect to the duties of teachers.

Restriction of facilities by sex

19.—(1) The right under section 1 to equal treatment with respect to services and facilities without discrimination because of sex is not infringed where the use of the services or facilities is restricted to persons of the same sex on the ground of public decency.

Athletic activities

(2) The right under section 1 to equal treatment with respect to services and facilities is not infringed where membership in an athletic organization or participation in an athletic activity is restricted to persons of the same sex.

Recreational clubs

(3) The right under section 1 to equal treatment with respect to services and facilities is not infringed where a recreational club restricts or qualifies access to its services or facilities or gives preferences with respect to membership dues and other fees because of age, sex, marital status or family status.

Shared accommodation

20.—(1) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed by discrimination where the residential accommodation is in a dwelling in which the owner or his or her family reside if the occupant or occupants of the residential accommodation are required to share a bathroom or kitchen facility with the owner or family of the owner.

Restrictions on accommodation, sex

(2) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination because of sex is not infringed by discrimination on that ground where the occupancy of all the residential accommodation in the building, other than the accommodation, if any, of the owner or family of the owner, is restricted to persons who are of the same sex.

Idem: marital status

(3) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination because of marital status is not infringed by discrimination on that ground where the occupancy is in a building that contains not more than four dwelling units, one of which is occupied by the owner or family of the owner.

Idem: family status

(4) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination because of family status is not infringed by discrimination on that ground where the residential accommodation is in a building, or designated part of the building, that contains more than one dwelling unit served by a common entrance and the occupancy of all the residential accommodation in the building or in the designated part of the building is restricted because of family status.

Restrictions for insurance contracts, etc.

21. The right under sections 1 and 3 to equal treatment with respect to services and to contract on equal terms, without discrimination because of age, sex, marital status, family status or handicap, is not infringed where a contract of automobile, life, accident or sickness or disability insurance or a contract of group insurance between an insurer and an association or person other than an employer, or a life annuity, differentiates or makes a distinction, exclusion or preference on reasonable and *bona fide* grounds because of age, sex, marital status, family status or handicap.

Discriminatory employment advertising

22.—(1) The right under section 4 to equal treatment with respect to employment is infringed where an invitation to apply for employment or an advertisement in connection with employment is published or displayed that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination.

Application for employment

(2) The right under section 4 to equal treatment with respect to employment is infringed where a form of application for employment is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination.

Questions at interview

(3) Nothing in subsection (2) precludes the asking of questions at a personal employment interview concerning a prohibited ground of discrimination where discrimination on such ground is permitted under this Act.

Employment agencies

(4) The right under section 4 to equal treatment with respect to employment is infringed where an employment agency discriminates against a person because of a prohibited ground of discrimination in receiving, classifying, disposing of or otherwise

acting upon applications for its services or in referring an applicant or applicants to an employer or agent of an employer.

Special employment

23. The right under section 4 to equal treatment with respect to employment is not infringed where,

(*a*) a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by their race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or handicap employs only, or gives preference in employment to, persons similarly identified if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment;

(*b*) the discrimination in employment is for reasons of age, sex, record of offences or marital status if the age, sex, record of offences or marital status of the applicant is a reasonable and *bona fide* qualification because of the nature of the employment;

(*c*) an individual person refuses to employ another for reasons of any prohibited ground of discrimination in section 4, where the primary duty of the employment is attending to the medical or personal needs of the person or of an ill child or an aged, infirm or ill spouse or other relative of the person; or

(*d*) an employer grants or withholds employment or advancement in employment to a person who is the spouse, child or parent of the employer or an employee.

Employment conditional on membership in pension plan

24.—(1) The right under section 4 to equal treatment with respect to employment is infringed where employment is denied or made conditional because a term or condition of employment requires enrolment in an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and an employer, that makes a distinction, preference or exclusion on a prohibited ground of discrimination.

Pension or disability plan under R.S.O. 1980, c. 137

(2) The right under section 4 to equal treatment with respect to employment without discrimination because of age, sex, marital status or family status is not infringed by an employee superannuation or pension plan or fund or a contract of group insurance between an insurer and an employer that complies with the *Employment Standards Act* and the regulations thereunder.

Employee disability and pension plans: handicap

(3) The right under section 4 to equal treatment with respect to employment without discrimination because of handicap is not infringed,

(*a*) where a reasonable and *bona fide* distinction, exclusion or preference is made in an employee disability or life insurance plan or benefit because of a pre-existing handicap that substantially increases the risk;

(*b*) where a reasonable and *bona fide* distinction, exclusion or preference is made on the ground of a pre-existing handicap in respect of an employee-pay-all or participant-pay-all benefit in an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and an employer or in respect of a plan, fund or policy that is offered by an employer to his employees if they are fewer than twenty-five in number.

Compensation

(4) An employer shall pay to an employee who is excluded because of a handicap from an employee benefit, pension or superannuation plan or fund or a contract of group insurance between an insurer and the employer compensation equivalent to the contribution that the employer would make thereto on behalf of an employee who does not have a handicap.

Discrimination in employment under government contracts

25.—(1) It shall be deemed to be a condition of every contract entered into by or on behalf of the Crown or any agency thereof and of every subcontract entered into in the performance thereof that no right under section 4 will be infringed in the course of performing the contract.

Idem, government grants and loans

(2) It shall be deemed to be a condition of every grant, contribution, loan or guarantee made by or on behalf of the Crown or any agency thereof that no right under section 4 will be infringed in the course of carrying out the purposes for which the grant, contribution, loan or guarantee was made.

Sanction

(3) Where an infringement of a right under section 4 is found by a board of inquiry upon a complaint and constitutes a breach of a condition under this section, the breach of condition is sufficient grounds for cancellation of the contract, grant, contribution, loan or guarantee and refusal to enter into any further contract with or make any further grant, contribution, loan or guarantee to the same person.

PART III

THE ONTARIO HUMAN RIGHTS COMMISSION

Commission continued

26.—(1) The Ontario Human Rights Commission is continued and shall be composed of such persons, being not fewer than seven, as are appointed by the Lieutenant Governor in Council.

Responsible to Minister

(2) The Commission is responsible to the Minister for the administration of this Act.

Chairman

(3) The Lieutenant Governor in Council shall designate a member of the Commission as chairman, and a member as vice-chairman.

Remuneration

(4) The Lieutenant Governor in Council may fix the remuneration and allowance for expenses of the chairman, vice-chairman and members of the Commission.

Staff
R.S.O. 1980, c. 418

(5) The employees of the Commission shall be appointed under the *Public Service Act*.

Divisions

(6) The Commission may authorize any function of the Commission to be performed by a division of the Commission composed of at least three members of the Commission.

Race relations division

27.—(1) The Lieutenant Governor in Council shall designate at least three members of the Commission to constitute a race relations division of the Commission and shall designate one member of the race relations division as Commissioner for Race Relations.

Functions

(2) It is the function of the race relations division of the Commission to perform any of the functions of the Commission under clause 28 (*f*), (*g*) or (*h*) relating to race, ancestry, place of origin, colour, ethnic origin or creed that are referred to it by the Commission and any other function referred to it by the Commission.

Function of Commission

28. It is the function of the Commission,

(*a*) to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law;

(*b*) to promote an understanding and acceptance of and compliance with this Act;

(*c*) to recommend for consideration a special plan or program designed to meet the requirements of subsection 13 (1), subject to the right of a person aggrieved by the implementation of the plan or program to request the Commission to reconsider its recommendation and section 36 applies with necessary modifications;

(*d*) to develop and conduct programs of public information and education and undertake, direct and encourage research designed to eliminate discriminatory practices that infringe rights under this Act;

(*e*) to examine and review any statute or regulation, and any program or policy made by or under a statute and make recommendations on any provision, program or policy, that in its opinion is inconsistent with the intent of this Act;

(*f*) to inquire into incidents of and conditions leading or tending to lead to tension or conflict based upon identification by a prohibited ground of discrimination and take appropriate action to eliminate the source of tension or conflict;

(*g*) to initiate investigations into problems based upon identification by a prohibited ground of discrimination that may arise in a community, and encourage and co-ordinate plans, programs and activities to reduce or prevent such problems;

(*h*) to promote, assist and encourage public, municipal or private agencies, organizations, groups or persons to engage in programs to alleviate tensions and conflicts based upon identification by a prohibited ground of discrimination;

(*i*) to enforce this Act and orders of boards of inquiry; and

(*j*) to perform the functions assigned to it by this or any other Act.

Evidence obtained in course of investigation

29.—(1) No person who is a member of the Commission shall be required to give testimony in a civil suit or any proceeding as to information obtained in the course of an investigation under this Act.

Idem

(2) No person who is employed in the administration of this Act shall be required to give testimony in a civil suit or any proceeding other than a proceeding under this Act as to information obtained in the course of an investigation under this Act.

Annual report

30.—(1) The Commission shall make a report to the Minister not later than the 30th day of June in each year upon the affairs of the Commission during the year ending on the 31st day of March of that year.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session, or, if not, at the next ensuing session.

PART IV

ENFORCEMENT

Complaints

31.—(1) Where a person believes that a right of his under this Act has been infringed, the person may file with the Commission a complaint in a form approved by the Commission.

Idem

(2) The Commission may initiate a complaint by itself or at the request of any person.

Combining of complaints

(3) Where two or more complaints,

(*a*) bring into question a practice of infringement engaged in by the same person; or

(*b*) have questions of law or fact in common,

the Commission may combine the complaints and deal with them in the same proceeding.

Investigation of complaints

32.—(1) Subject to section 33, the Commission shall investigate a complaint and endeavour to effect a settlement.

Investigation

(2) An investigation by the Commission may be made by a member or employee of the Commission who is authorized by the Commission for the purpose.

Powers on investigation

(3) A person authorized to investigate a complaint may,

(*a*) enter any place, other than a place that is being used as a dwelling, at any reasonable time, for the purpose of investigating the complaint;

(*b*) request the production for inspection and examination of documents or things that are or may be relevant to the investigation;

(*c*) upon giving a receipt therefor, remove from a place documents produced in response to a request under clause (*b*) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced or furnished them; and

(*d*) question a person on matters that are or may be relevant to the complaint subject to the person's right to have counsel or a personal representative present during such questioning, and may exclude from the questioning any person who may be adverse in interest to the complainant.

Entry into dwellings

(4) A person investigating a complaint shall not enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under subsection (8).

Denial of entry

(5) Subject to subsection (4), if a person who is or may be a party to a complaint denies entry to any place, or instructs the person investigating to leave the place, or impedes or prevents an investigation therein, the Commission may request the Minister to appoint a board of inquiry or may authorize an employee or member to apply to a justice of the peace for a warrant to enter under subsection (8).

Refusal to produce

(6) If a person refuses to comply with a request for production of documents or things, the Commission may request the Minister to appoint a board of inquiry, or may authorize an employee or member to apply to a justice of the peace for a search warrant under subsection (7).

Warrant for search

(7) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents that there is reasonable ground to believe will afford evidence relevant to the complaint, he may issue a warrant in the prescribed form authorizing a person named in the warrant to search a place for any such documents, and to remove them for the purposes of making copies thereof or extracts therefrom, and the documents shall be returned promptly to the place from which they were removed.

Warrant for entry

(8) Where a justice of the peace is satisfied by evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered to investigate a complaint, he may issue a warrant in the prescribed form authorizing such entry by a person named in the warrant.

Execution of warrant

(9) A warrant issued under subsection (7) or (8) shall be executed at reasonable times as specified in the warrant.

Expiration of warrant

(10) Every warrant shall name a date on which it expires, which shall be a date not later than fifteen days after it is issued.

Obstruction

(11) No person shall hinder, obstruct or interfere with a person in the execution of a warrant or otherwise impede an investigation under this Act.

Idem

(12) Subsection (11) is not contravened by a refusal to comply with a request for the production of documents or things made under clause (3) (*b*).

Admissibility of copies

(13) Copies of, or extracts from, documents removed from premises under clause (3) (*c*) or subsection (7) certified as being true copies of the originals by the person who made them, are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents of which they are copies or extracts.

Decision to not deal with complaint

33.—(1) Where it appears to the Commission that,

(*a*) the complaint is one that could or should be more appropriately dealt with under an Act other than this Act;

(*b*) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith;

(*c*) the complaint is not within the jurisdiction of the Commission; or

(*d*) the facts upon which the complaint is based occurred more than six months before the complaint was filed, unless the Commission is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay,

the Commission may, in its discretion, decide to not deal with the complaint.

Notice of decision and reasons

(2) Where the Commission decides to not deal with a complaint, it shall advise the complainant in writing of the decision and the reasons therefor and of the procedure under section 36 for having the decision reconsidered.

Panel of members for boards of inquiry

34.—(1) The Minister shall appoint a panel of persons to act as members of boards of inquiry.

Remuneration

(2) The members of boards of inquiry shall be paid such allowances and expenses as are fixed by the Lieutenant Governor in Council.

Referred to board of inquiry

35.—(1) Where the Commission fails to effect a settlement of the complaint and it appears to the Commission that the procedure is appropriate and the evidence warrants an inquiry, the Commission may request the Minister to appoint a board of inquiry and refer the subject-matter of the complaint to the board.

Notice of decision not to appoint inquiry

(2) Where the Commission decides to not request the Minister to appoint a board of inquiry, it shall advise the complainant and the person complained against in writing of the decision and the reasons therefor and inform the complainant of the procedure under section 36 for having the decision reconsidered.

Reconsideration

36.—(1) Within a period of fifteen days of the date of mailing the decision and reasons therefor mentioned in subsection 33 (2) or subsection 35 (2), or such longer period as the Commission may for special reasons allow, a complainant may request the Commission to reconsider its decision by filing an application for reconsideration containing a concise statement of the material facts upon which the application is based.

Notice of application

(2) Upon receipt of an application for reconsideration the Commission shall as soon as is practicable notify the person complained against of the application and afford the person an opportunity to make written submissions with respect thereto within such time as the Commission specifies.

Decision

(3) Every decision of the Commission on reconsideration together with the reasons therefor shall be recorded in writing and promptly communicated to the complainant and the person complained against and the decision shall be final.

Appointment of board

37.—(1) Where the Commission requests the Minister to appoint a board of inquiry, the Minister shall appoint from the panel one or more persons to form the board of inquiry and the Minister shall communicate the names of the persons forming the board to the parties to the inquiry.

Members at hearing not to have taken part in investigation, etc.

(2) A member of the board hearing a complaint must not have taken part in any investigation or consideration of the subject-matter of the inquiry before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the inquiry with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent of the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Hearing

38.—(1) The board of inquiry shall hold a hearing,

(*a*) to determine whether a right of the complainant under this Act has been infringed;

(*b*) to determine who infringed the right, and

(*c*) to decide upon an appropriate order under section 40,

and the hearing shall be commenced within thirty days after the date on which the members were appointed.

Parties

(2) The parties to a proceeding before a board of inquiry are,

(*a*) the Commission, which shall have the carriage of the complaint;

(*b*) the complainant;

(*c*) any person who the Commission alleges has infringed the right;

(*d*) any person appearing to the board of inquiry to have infringed the right;

(*e*) where the complaint is of alleged conduct constituting harassment under subsection 2 (2) or subsection 4 (2) or of alleged conduct under section 6, any person who, in the opinion of the board, knew or was in possession of facts from which he or she ought reasonably to have known of the conduct and who had authority to penalize or prevent the conduct.

Adding parties

(3) A party may be added by the board of inquiry under clause (2) (*d*) or clause (2) (*e*) at any stage of the proceeding upon such terms as the board considers proper.

Adjournment on production R.S.O. 1980, c. 484

(4) Where a board exercises its power under clause 12 (1) (*b*) of the *Statutory Powers Procedure Act* to issue a summons requiring the production in evidence of documents or things, it may, upon the production of the documents or things before it, adjourn the proceedings to permit the parties to examine the documents or things.

Adjournment for view

(5) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the proceedings for that purpose.

Recording of evidence

39. The oral evidence taken before a board at a hearing shall be recorded, and copies of a transcript thereof shall be furnished upon request upon the same terms as in the Supreme Court.

Orders of boards of inquiry

40.—(1) Where the board of inquiry, after a hearing, finds that a right of the complainant under Part I has been infringed and that the infringement is a contravention of section 8 by a party to the proceeding, the board may, by order,

(*a*) direct the party to do anything that, in the opinion of the board, the party ought to do to achieve compliance with this Act, both in respect of the complaint and in respect of future practices; and

(*b*) direct the party to make restitution, including monetary compensation, for loss arising out of the infringement, and, where the infringement has been engaged in wilfully or recklessly, monetary compensation may include an award, not exceeding $10,000, for mental anguish.

Idem

(2) Where the board of inquiry at the conclusion of the hearing finds that a right of a person under Part 1 has been infringed by discrimination because of handicap, the board may then proceed to inquire whether,

(*a*) the person does not have access to premises, services, goods, facilities or accommodation of the party who is found to be a contravener, because of handicap; or

(*b*) the premises, services, goods, facilities or accommodation of the party who is found to be a contravener lack amenities that are appropriate to persons because of the handicap,

and after making a finding thereon, the board may, unless the costs occasioned thereby would cause undue hardship and subject to the regulations, order that the party take such measures as will make such provision for access or amenities or as are set out in the order.

Idem

(3) In addition to the powers conferred by subsection (2), where the board of inquiry at the conclusion of the hearing under subsection (1) finds that a right of a person under Part I has been infringed by discrimination because of handicap, the board may then proceed to inquire and make a finding as to whether the equipment or essential duties attending the exercise of the right could be adapted to meet the needs of the person whose right is infringed and, after making a finding thereon, the board may, unless the costs occasioned thereby would cause undue hardship and subject to the regulations, order that the party take such measures to adapt the equipment or duties as will meet such needs and as are set out in the order.

Order to prevent harassment

(4) Where a board makes a finding under subsection (1) that a right is infringed on the ground of harassment under subsection 2 (2) or subsection 4 (2) or conduct under section 6, and the board finds that a person who is a party to the proceeding,

(*a*) knew or was in possession of knowledge from which he ought to have known of the infringement; and

(*b*) had the authority by reasonably available means to penalize or prevent the conduct and failed to use it,

the board shall remain seized of the matter and upon complaint of a continuation or repetition of the infringement of the right the Commission may investigate the complaint and, subject to subsection 35 (2), request the board to re-convene and if the board finds that a person who is a party to the proceeding,

(*c*) knew or was in possession of knowledge from which he or she ought to have known of the repetition of infringement; and

(*d*) had the authority by reasonably available means to penalize or prevent the continuation or repetition of the conduct and failed to use it,

the board may make an order requiring the person to take whatever sanctions or steps are reasonably available to prevent any further continuation or repetition of the infringement of the right.

Re-appointment of board

(5) Where a board of inquiry for any reason is unable to exercise its powers under this section or section 38, the Commission may request the Minister to appoint a new board of inquiry in its place.

Costs

(6) Where, upon dismissing a complaint, the board of inquiry finds that,

(*a*) the complaint was trivial, frivolous, vexatious or made in bad faith; or

(*b*) in the particular circumstances undue hardship was caused to the person complained against,

the board of inquiry may order the Commission to pay to the person complained against such costs as are fixed by the board.

Decision within 30 days

(7) The board of inquiry shall make its finding and decision within thirty days after the conclusion of its hearing.

Appeal from decision of board of inquiry

41.—(1) Any party to a proceeding before a board of inquiry may appeal from a decision or order of the board to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where notice of an appeal is served under this section, the board of inquiry shall forthwith file in the Divisional Court the record of the proceedings before it in which the decision or order appealed from was made and the record, together with a transcript of the oral evidence taken before the board if it is not part of the record of the board, shall constitute the record in the appeal.

Powers of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board of inquiry or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board.

Settlements

42. Where a settlement of a complaint is agreed to in writing, signed by the parties and approved by the Commission, the settlement is binding upon the parties, and a breach of the settlement is grounds for a complaint under section 31, and this Part applies to the complaint in the same manner as if the breach of the settlement were an infringement of a right under this Act.

Penalty

43.—(1) Every person who contravenes section 8, subsection 32 (11), or an order of a board of inquiry, is guilty of an offence and on conviction is liable to a fine of not more than $25,000.

Consent to prosecution

(2) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Attorney General.

Acts of officers, etc.

44.—(1) For the purposes of this Act, except subsection 2 (2), subsection 4 (2), section 6 and subsection 43 (1), any act or thing done or omitted to be done in the course of his or her employment by an officer, official, employee or agent of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization shall be deemed to be an act or thing done or omitted to be done by the corporation, trade union, trade or occupational association, unincorporated association or employers' organization.

Opinion re authority or acquiescence

(2) At the request of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization, a board of inquiry in its decision shall make known whether or not, in its opinion, an act or thing done or omitted to be done by an officer, official, employee or agent was done or omitted to be done with or without the authority or acquiescence of the corporation, trade union, trade or occupational association, unincorporated association or employers' organization, and the opinion does not affect the application of subsection (1).

PART V

GENERAL

Interpretation

45. In this Act,

(*a*) "Commission" means the Ontario Human Rights Commission;

(*b*) "Minister" means the member of the Executive Council to whom the powers and duties of the Minister under this Act are assigned by the Lieutenant Governor in Council;

R.S.O. 1980, cc. 219, 381

(*c*) "person", in addition to the extended meaning given it by the *Interpretation Act*, includes an employment agency, an employers' organization, an unincorporated association, a trade or occupational association, a trade union, a partnership, a municipality and a board of police commissioners established under the *Police Act*.

Act binds Crown

46.—(1) This Act binds the Crown and every agency of the Crown.

Act has primacy over other Acts

(2) Where a provision in an Act or regulation purports to require or authorize conduct that is a contravention of Part I, this Act applies and prevails unless the Act or regulation specifically provides that it is to apply notwithstanding this Act.

Application

(3) Subsection (2) does not apply to an Act or regulation heretofore enacted or made until two years after this Act comes into force.

Regulations

47. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing criteria or guidelines for boards of inquiry in the making of findings under subsections 40 (2) and (3);

(*b*) prescribing forms and notices and providing for their use.

Repeal

48. The *Ontario Human Rights Code*, being chapter 340 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

***49.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

50. The short title of this Act is the *Human Rights Code, 1981*.

*This Act was proclaimed in force on the 15th day of June, 1982.

Municipal Conflict of Interest Act, 1983

Statutes of Ontario, 1983
Chapter 8

Printed by
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Office Consolidation
This edition is prepared for purposes of convenience only, and for accurate reference recourse should be had to the statutes.

Interpretation

1. In this Act,

(a) "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

(b) "controlling interest" means the interest that a person has in a corporation when he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;

(c) "council" means the council of a municipality other than an improvement district and means the board of trustees of a municipality that is an improvement district;

(d) "elector" means,

(i) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(ii) in respect of a school board, a person entitled to vote at the election of members of the school board;

(e) "interest in common with electors generally" means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

(f) "judge" means a judge of the county or district court of the county or district in which the municipality or the administrative or head office of the local board is situate, or if, through illness or absence there is no judge of that court able to act, a judge of the county or district court of a county or district that adjoins the county or district in which the municipality or the administrative or head office of the local board is situate;

(g) "local board" means a school board, board of directors of a children's aid society, committee of adjustment, committee of management of a community recreation centre, conservation authority, court of revision, land division committee, public utilities commission, public library board, board of management of an improvement area, board of park management, board of health, board of commissioners of police, planning board, district welfare administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a home for the aged, suburban roads commission or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes,

including school purposes, of a municipality or of two or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board, a local services board or a negotiating committee appointed under the *Municipal Boundary Negotiations Act, 1981*;

1981, c. 70

(h) "meeting" includes any regular, special, committee or other meeting of a council or local board, as the case may be;

(i) "member" means a member of a council or of a local board;

(j) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board;

(k) "parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

(l) "school board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board and includes a divisional board of education;

(m) "senior officer" means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;

(n) "spouse" means either of a man and woman who,

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or

(iv) not being married to each other have cohabited,

(A) continuously for a period of not less than five years, or

(B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year. 1983, c. 8, s. 1.

Indirect pecuniary interest

2. For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

(a) he or his nominee,

(i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,

(ii) has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public, or

(iii) is a member of a body,

that has a pecuniary interest in the matter; or

(b) he is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter. 1983, c. 8, s. 2.

Interest of certain relatives deemed that of member

3. For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member. 1983, c. 8, s. 3.

EXCEPTIONS

Where s. 5 does not apply

4. Section 5 does not apply to a pecuniary interest in any matter that a member may have,

(a) as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;

(b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

(c) by reason of his purchasing or owning a debenture of the municipality or local board;

(d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other electors;

R.S.O. 1980, cc. 126, 250

(e) by reason of having an interest in any property affected by a work under the *Drainage Act* or under the *Local Improvement Act*;

R.S.O. 1980, c. 31

(f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;

(g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;

(h) by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of his being a member of a board, commission, or other body as an appointee of a council or local board;

(i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member or under a by-law passed pursuant to section 252 of the *Municipal Act*, or as a member of a volunteer fire brigade, as the case may be;

R.S.O. 1980, c. 302

(j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or

(k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member. 1983, c. 8, s. 4.

DUTY OF MEMBER

When present at meeting at which matter considered

5.—(1) Where a member, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, he,

(a) shall, prior to any consideration of the matter at the meeting, disclose his interest and the general nature thereof;

(b) shall not take part in the discussion of, or vote on any question in respect of the matter; and

(c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

Where member to leave closed meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration.

When absent from meeting at which matter considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of his absence from the meeting referred to therein, the member shall disclose his interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection (1). 1983, c. 8, s. 5.

RECORD OF DISCLOSURE

Disclosure to be recorded in minutes

6.—(1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be.

Idem

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public. 1983, c. 8, s. 6.

REMEDY FOR LACK OF QUORUM

Quorum deemed constituted

7.—(1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.

Application to judge

(2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local board may apply to a judge on an *ex parte* basis for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises.

Power of judge to declare s. 5 not to apply

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order. 1983, c. 8, s. 7.

ACTION WHERE CONTRAVENTION ALLEGED

Who may try alleged contravention of s. 5 (1-3)

8. The question of whether or not a member has contravened subsection 5 (1), (2) or (3) may be tried and determined by a judge. 1983, c. 8, s. 8.

Who may apply to judge

9.—(1) Subject to subsection (3), an elector may, within six weeks after the fact comes to his knowledge that a member may have contravened subsection 5 (1), (2) or (3), apply to the judge by way of originating notice of motion in the manner prescribed by the rules of court for a determination of the question of whether the member has contravened subsection 5 (1), (2) or (3).

Contents of notice of motion

(2) The elector in his notice of motion shall state the grounds for finding a contravention by the member of subsection 5 (1), (2) or (3).

Time for bringing application limited

(3) No application shall be brought under subsection (1) after the expiration of six years from the time at which the contravention is alleged to have occurred. 1983, c. 8, s. 9.

Power of judge to declare seat vacant, disqualify member and require restitution

10.—(1) Subject to subsection (2), where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), he,

(a) shall, in the case of a member, declare the seat of the member vacant; and

(b) may disqualify the member or former member from being a member during a period thereafter of not more than seven years; and

(c) may, where the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality or local board of which he is a member or former member.

Saving by reason of inadvertence or *bona fide* error

(2) Where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), if the judge finds that the contravention was committed through inadvertence or by reason of a *bona fide* error in judgment, the member is not subject to having his seat declared vacant and the member or former member is not subject to being disqualified as a member, as provided by subsection (1).

Member not to be suspended

(3) The authority to disqualify a member in subsection (1) does not include the right to suspend a member. 1983, c. 8, s. 10.

Appeal to Divisional Court

11.—(1) An appeal lies from any order made under section 10 to the Divisional Court in accordance with the rules of court.

Judgment or new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal.

Appeal from order or new trial

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section. 1983, c. 8, s. 11.

Proceedings not invalidated but voidable

12. The failure of any person to comply with subsection 5 (1), (2) or (3) does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith and without actual notice of the failure to comply with subsection 5 (1), (2) or (3). 1983, c. 8, s. 12.

Procedure substituted for *quo warranto* proceedings

13. Proceedings to declare a seat vacant or to disqualify a member or former member for conflict of interest, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain,

shall be had and taken only under the provisions of this Act. 1983, c. 8, s. 13.

GENERAL

Liability insurance, payment of damages, etc. R.S.O. 1980, c. 302

14.—(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws for contracting for insurance to protect a member of the council or of any local board thereof, who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

Local boards

(2) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members.

Former members

(3) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member. 1983, c. 8, s. 14.

Conflict with other Acts

15. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. 1983, c. 8, s. 15.

R.S.O. 1980, c. 302, ss. 63, 64, repealed

16.—(1) Sections 63 and 64 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

Idem, s. 248 (1), amended

(2) Subsection 248 (1) of the said Act is amended by inserting after "may" in the first line "at any time" and by inserting after "proceeding" in the eighth line "except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*". 1983, c. 8, s. 16.

R.S.O. 1980, c. 66, s. 15 (2), re-enacted

17. Subsection 15 (2) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

When society a local board

R.S.O. 1980, c. 348

1983, c. 8

(2) A society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act* and the *Municipal Conflict of Interest Act, 1983* and not for any other purpose. 1983, c. 8, s. 17.

R.S.O. 1980, c. 471, s. 3 (6), repealed

18. Subsection 3 (6) of the *Shoreline Property Assistance Act*, being chapter 471 of the Revised Statutes of Ontario, 1980, is repealed. 1983, c. 8, s. 18.

R.S.O. 1980, c. 421, s. 65 (10), repealed

19. Subsection 65 (10) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed. 1983, c. 8, s. 19.

R.S.O. 1980, c. 85, s. 37, repealed

20. Section 37 of the *Conservation Authorities Act*, being chapter 85 of the Revised Statutes of Ontario, 1980, is repealed. 1983, c. 8, s. 20.

R.S.O. 1980, c. 500, s. 3 (2), repealed

21. Subsection 3 (2) of the *Tile Drainage Act*, being chapter 500 of the Revised Statutes of Ontario, 1980, is repealed. 1983, c. 8, s. 21.

Repeal of R.S.O. 1980, c. 305

22. The *Municipal Conflict of Interest Act* is repealed. 1983, c. 8, s. 22.

Where proceedings to be under R.S.O. 1980, c. 305

23.—(1) Notwithstanding section 22, where, before the coming into force of this Act, proceedings are commenced under the *Municipal Conflict of Interest Act* or circumstances arise that give grounds for the commencement of proceedings under that Act, then the proceedings shall be continued or commenced and taken, as the case may be, under the *Municipal Conflict of Interest Act* and not under this Act, but no such proceedings shall be commenced more than one year after this Act comes into force.

Saving

(2) Notwithstanding subsection (1), no proceeding may be commenced under the *Municipal Conflict of Interest Act* after the coming into force of this Act in respect of a member's failure to declare an interest acquired after a meeting referred to in subsection 2 (1) of that Act. 1983, c. 8, s. 23.

Commencement

***24.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25. The short title of this Act is the *Municipal Conflict of Interest Act, 1983*.

***NOTE: This Act was proclaimed in force as of the 1st day of March, 1983.**

Public Libraries Act, 1984

Statutes of Ontario, 1984
Chapter 57

Interpretation

1. In this Act,

(a) "board" in Part I means a public library board, a union board, a county library board or a county library co-operative board and in Part II means an Ontario library service board;

(b) "Minister" means the Minister of Citizenship and Culture;

(c) "municipality" means a city, town, village, township or improvement district;

(d) "prescribed" means prescribed by the regulations;

(e) "regulations" means the regulations made under this Act. 1984, c. 57, s. 1.

PART I

PUBLIC LIBRARY SERVICE

PUBLIC LIBRARY BOARDS

Public libraries continued

2. Every public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part. 1984, c. 57, s. 2.

Establishment of public library

3.—(1) The council of a municipality and the trustees of an improvement district may by by-law establish a public library.

Copy of by-law to be sent to Minister

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Board

(3) A public library shall be under the management and control of a board, which is a corporation known as "The (*insert name of municipality*) Public Library Board". 1984, c. 57, s. 3.

UNION BOARDS

Union libraries continued

4. Every union public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part. 1984, c. 57, s. 4.

Establishment of union public library

5.—(1) The councils of two or more municipalities may make an agreement for the establishment of a union public library.

Agreement

(2) An agreement under subsection (1) shall specify what proportion of the cost of the establishment, operation and maintenance of the union public library, including the cost of existing libraries, shall be paid by each municipality.

Union board

(3) A union public library shall be under the management and control of a union board, which is a corporation known as "The (*insert appropriate name*) Union Public Library Board".

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Dissolution of boards included in union

(4) When an agreement is made under subsection (1), the public library boards established in the municipalities for which the union board is established are thereby dissolved, and the assets and liabilities of those boards are vested in and assumed by the union board, unless the agreement provides otherwise.

Copy of agreement to be sent to Minister

(5) When an agreement is made under subsection (1), the clerk of the municipality that has the greatest population shall promptly mail or deliver a copy of the agreement to the Minister. 1984, c. 57, s. 5.

COUNTY LIBRARY BOARDS

County libraries continued

6. Every county library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part. 1984, c. 57, s. 6.

County library establishment

7.—(1) Where resolutions of the councils of at least two-thirds of the municipalities forming part of a county for municipal purposes request that the county establish a county library, the council of the county may by by-law establish a county library for those municipalities.

Copy of by-law to be sent to Minister

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Additional members: agreements

(3) At any time after a county library is established, the council of a non-participating municipality, city or separated town and the county council may make an agreement bringing the non-participating municipality, city or separated town into the county library, and the county council shall amend the establishing by-law accordingly.

Contents of agreement

(4) An agreement made under subsection (3) shall specify what proportion of the cost of the establishment, operation and maintenance of the county library shall be paid by the county and the city or separated town respectively.

Dissolution of public library boards, etc.

(5) When a county library is established, every public library board and county library co-operative established for a municipality or any part thereof that is included in the area for which the county library is established is dissolved, and the assets and liabilities of the boards are vested in and assumed by the county library board unless the by-law establishing the county library provides otherwise.

Idem

(6) When a municipality joins a county library, subsection (5) applies with necessary modifications.

County library board

(7) A county library shall be under the management and control of a board, which is a corporation known as "The (*insert name of county*) County Library Board". 1984, c. 57, s. 7.

COUNTY LIBRARY CO-OPERATIVE BOARDS

County library co-operatives continued

8.—(1) Every county library co-operative board established under a predecessor of this Act that was in existence immediately before the day this Part comes into force is continued subject to this Part.

When dissolved

(2) Where a county library co-operative has jurisdiction in an area for which a county library is established, the county library co-operative is dissolved, and its assets and liabilities are vested in and assumed by the county library board. 1984, c. 57, s. 8.

GENERAL

Composition of public library board

9.—(1) A public library board for a municipality whose population is less than 100,000 shall be composed of at least five and no more than nine members appointed by the municipal council.

Idem

(2) A public library board for a municipality whose population is 100,000 or more shall be composed of at least nine and no more than fifteen members appointed by the municipal council.

School board representation on public library board

(3) In the case of a public library board for a municipality whose population is 10,000 or more, school boards with jurisdiction in the municipality shall be represented on the public library board in the following manner:

1. Two of the members of the public library board shall be persons recommended by the board of education and one member shall be a person recommended by the separate school board, if any, unless paragraph 2 applies.

2. If separate school electors are a majority of electors in the municipality, two of the members of the public library board shall be persons recommended by the separate school board and one member shall be a person recommended by the board of education.

3. If there is more than one board of education or more than one separate school board, in each case the board that is supported by the largest number of electors of the municipality shall make the recommendation or recommendations.

Composition of union board

(4) A union board shall be composed of at least five and no more than fifteen members appointed by the councils of the affected municipalities in the proportions and in the manner specified in the agreement made under subsection 5 (1).

Idem: county library board

(5) A county library board shall be composed of at least seven and no more than fifteen members appointed by the county council.

City or separated town: appointments to county library board

(6) When a city or separated town joins a county library, the members of the county library board shall be appointed by the county council and the council of the city or separated town in the proportions agreed upon by the county council and the council of the city or separated town.

Idem: county library co-operative board

(7) The board of a county library co-operative shall be composed of at least seven and no more than fifteen members appointed by the county council. 1984, c. 57, s. 9.

Qualifications of board members

10.—(1) A person is qualified to be appointed as a member of a board who is a member of the appointing council or,

(a) is at least eighteen years old;

(b) is a Canadian citizen;

(c) is,

(i) in the case of a public library board, a resident of the municipality for which the board is established, or is a resident of a municipality or of the board area of a local service board or a member of an Indian band that has a contract with the board under section 29,

(ii) in the case of a union board, a resident of one of the affected municipalities, or

(iii) in the case of a county library board or county library co-operative board, a resident of the county; and

(d) is not employed by the board or by the municipality or county or, in the case of a union board, by any of the affected municipalities.

Number of council members on board limited

(2) The appointing council shall not appoint more of its own members to a board than the number that is,

(a) in the case of a public library board or union board, one less than a majority of the board; and

(b) in the case of a county library or a county co-operative library, a bare majority of the board.

Term

(3) A board member shall hold office for a term concurrent with the term of the appointing council, or until a successor is appointed, and may be reappointed for one or more further terms.

Time for making appointments

(4) The first appointments of members of a new board shall be made at a regular meeting of council and the member shall take office as soon as possible thereafter, and thereafter appointments shall be made at the first meeting of council in each term, but if the council fails to make the appointments at its first meeting, it shall do so at its next regular meeting. 1984, c. 57, s. 10.

Notice of vacancies

11.—(1) The clerk of the appointing municipality or county or, in the case of a union board, the clerks of the affected municipalities shall give public notice of vacancies on the board by publishing a notice of them, inviting applications, in a newspaper of general circulation in the municipality.

Idem

(2) The notice referred to in subsection (1) shall be in English or in both English and French, as may be appropriate.

Idem

(3) In the case of a public library board, where a vacancy on the board requires the appointment of a person recommended by the public school board, board of education or separate school board that has jurisdiction in the municipality, the notice referred to in subsection (1) shall be published in a newspaper of general circulation in the municipality by the secretary of the school board concerned. 1984, c. 57, s. 11.

Vacancies

12. Where a vacancy arises in the membership of a board, the appointing council shall promptly appoint a person to fill the vacancy and to hold office for the unexpired term, except where the unexpired term is less than forty-five days. 1984, c. 57, s. 12.

Disqualification of board member

13. If a board member,

(a) is convicted of an indictable offence;

(b) becomes incapacitated;

(c) is absent from the meetings of the board for three consecutive months without being authorized by a board resolution;

(d) ceases to be qualified for membership under clause 10 (1) (c); or

(e) otherwise forfeits his or her seat,

the member's seat becomes vacant and the remaining members shall forthwith declare the seat vacant and notify the appointing council accordingly. 1984, c. 57, s. 13.

First meeting

14.—(1) The first meeting of a board in a new term shall be called,

(a) if a by-law has been passed under subsection (2), by the chief executive officer appointed under subsection 15 (2); and

(b) if no by-law has been passed under subsection (2), by the clerk of the appointing council or, in the case of a union board, the clerk of the municipality having the greatest population.

By-law re calling first meeting

(2) A municipal council or, in the case of a union board, a majority of the municipal councils affected may by by-law authorize the chief executive officer appointed under subsection 15 (2) to call the first meeting of the board in each new term.

Chairman

(3) A board shall elect one of its members as chairman at its first meeting in a new term.

Acting chairman

(4) In the absence of the chairman, the board may appoint one of its members as acting chairman. 1984, c. 57, s. 14.

Staff

15.—(1) A board may appoint and remove such officers and servants as it considers necessary, determine the terms of their employment, fix their remuneration and prescribe their duties.

Chief executive officer

(2) A board shall appoint a chief executive officer who shall have general supervision over and direction of the operations of the public library and its staff, shall attend all board meetings and shall have the other powers and duties that the board assigns to him or her from time to time.

Secretary

(3) A board shall appoint a secretary who shall,

(a) conduct the board's official correspondence; and

(b) keep minutes of every meeting of the board.

Treasurer

(4) A board shall appoint a treasurer who shall,

(a) receive and account for all the board's money;

(b) open an account or accounts in the name of the board in a chartered bank, trust company or credit union approved by the board;

(c) deposit all money received on the board's behalf to the credit of that account or accounts; and

(d) disburse the money as the board directs.

Idem

(5) The same person may be both the secretary and the treasurer, and the chief executive officer appointed under subsection (2) may be the secretary and may be the treasurer. 1984, c. 57, s. 15.

Regular meetings

16.—(1) A board shall hold regular meetings at least once monthly from January to June and from September to December, both inclusive, and at such other times as it considers necessary.

Special meetings

(2) The chairman or any two members of a board may summon a special meeting of the board by giving each member reasonable notice in writing, specifying the purpose for which the meeting is called.

Open meetings: exception

(3) Despite any other Act, board meetings shall be open to the public, except that where the board is of the opinion that intimate financial or personal matters may be disclosed at a meeting and that the desirability of protecting against the consequences of their public disclosure outweighs the desirability of holding the meeting in public, the board may hold that meeting in the absence of the public.

Excluding person

(4) Despite subsection (3), the chairman may exclude any person from a meeting for improper conduct.

Quorum

(5) The presence of a majority of the board is necessary for the transaction of business at a meeting.

Voting

(6) The chairman or acting chairman of a board may vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negative. 1984, c. 57, s. 16.

Language

R.S.O. 1980, c. 302

17. A board may conduct its meetings in English or French or in both English and French, and subsections 104a (i), (4), (5), (6) and (7) of the *Municipal Act* apply to a board with necessary modifications. 1984, c. 57, s. 17.

Expenses

18. A board may reimburse its members for proper travelling and other expenses incurred in carrying out their duties as members. 1984, c. 57, s. 18.

Real property

19.—(1) A board may, with the consent of the appointing council or, where it is a union board, the consent of a majority of the councils of the municipalities for which it was established,

(a) acquire land required for its purposes by purchase, lease, expropriation or otherwise;

(b) erect, add to or alter buildings;

(c) acquire or erect a building larger than is required for library purposes, and lease any surplus part of the building; and

(d) sell, lease or otherwise dispose of any land or building that is no longer required for the board's purposes.

Application of R.S.O. 1980, c. 148

(2) The *Expropriations Act* applies to the expropriation of land under subsection (1). 1984, c. 57, s. 19.

Powers and duties of board

20. A board,

(a) shall seek to provide, in co-operation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs;

(b) shall seek to provide library services in the French language, where appropriate;

(c) shall operate one or more libraries and ensure that they are conducted in accordance with this Act and the regulations;

(d) may operate special services in connection with a library as it considers necessary;

(e) shall fix the times and places for board meetings and the mode of calling and conducting them, and ensure that full and correct minutes are kept;

(f) shall make an annual report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister from time to time;

(g) shall make provision for insuring the board's real and personal property;

(h) shall take proper security for the treasurer; and

(i) may appoint such committees as it considers expedient. 1984, c. 57, s. 20.

Operation of branch libraries by county library board

21. A county library board shall operate a branch library in each local municipality that operated a public library before that municipality became part of the county library system, unless the county council and the council of the municipality concerned agree otherwise. 1984, c. 57, s. 21.

Retirement allowances

R.S.O. 1980, c. 302

22.—(1) A board may, with the approval of the appointing council or councils, grant an annual retirement allowance to an employee in accordance with section 100 of the *Municipal Act*, and that section applies with necessary modifications.

Pensions

R.S.O. 1980, c. 302

(2) A board may, by resolution, provide pensions for employees or any class of them and their surviving spouses and children in the manner and subject to the conditions set out in paragraph 46 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Sick leave credits

(3) A board may, by resolution, establish a system of sick leave credit gratuities for employees or any class of them in

R.S.O. 1980, c. 302

the manner and subject to the conditions set out in paragraph 47 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications. 1984, c. 57, s. 22.

Libraries to be open to public

23.—(1) A board shall not make a charge for admission to a public library or for use in the library of the library's materials.

Certain library services free

(2) Every board shall allow the public to,

(a) reserve and borrow circulating materials that are prescribed or belong to a prescribed class; and

(b) use reference and information services as the board considers practicable,

without making any charge.

Fees

(3) A board may impose such fees as it considers proper for,

(a) services not referred to in subsections (1) and (2);

(b) the use of the parts of a building that are not being used for public library purposes; and

(c) the use of library services by persons who do not reside in the area of the board's jurisdiction.

Rules

(4) Subject to the regulations, a board may make rules,

(a) for the use of library services;

(b) for the admission of the public to the library;

(c) for the exclusion from the library of persons who behave in a disruptive manner or cause damage to library property;

(d) imposing fines for breaches of the rules;

(e) suspending library privileges for breaches of the rules; and

(f) regulating all other matters connected with the management of the library and library property. 1984, c. 57, s. 23.

Estimates

24.—(1) A public library board, county library board or county library co-operative board shall submit to the appointing council, annually on or before the date and in the form specified by the council, estimates of all sums required during the year for the purposes of the board.

Approval of estimates

(2) The amount of the board's estimates that is approved or amended and approved by the council shall be adopted by the board and shall be paid to the board out of the moneys appropriated for it.

Idem

(3) The board shall apply the money paid to it under subsection (2) in accordance with the estimates as approved, subject to subsection (4).

Council may authorize variation

(4) The council may, in its approval of the board's estimates or at any time at the board's request, authorize the board to apply a specified amount or percentage of the money paid to it under subsection (2) otherwise than in accordance with the items of the estimates as approved.

Idem: union board

(5) A union board shall submit its estimates to each of the councils of the municipalities for which the board was established, and subsections (1), (2), (3) and (4) apply to the union board with necessary modifications.

Where two or more municipalities concerned

(6) A union board shall submit with its estimates a statement as to the proportion of the estimates that is to be charged to each of the municipalities, and if the estimates of the board are approved or amended and approved by the councils of the municipalities representing more than one-half of the population of the area for which the board was established, they are binding on all the municipalities.

Audited financial statements

(7) A public library board, county library board or county library co-operative board shall submit its annual financial statements, audited by a person appointed under section 88 of the *Municipal Act*, to the council annually on or before the date specified by the council.

R.S.O. 1980, c. 302

Idem: union board

(8) A union board shall submit its annual financial statements to each of the councils of the municipalities for which the board was established, and subsection (7) applies to the union board with necessary modifications. 1984, c. 57, s. 24.

Debentures for library purposes

25.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a public library board or union board for the purposes of acquiring land, for building, erecting or altering a building or for acquiring books and other things required for a newly established library may, on the application of the board, be raised by the issue of municipal debentures.

Application to council

(2) The board's application shall be made to the council or councils of the municipality or municipalities for which the board was established.

Council to deal with application

(3) The council or, if more than one, each of the councils, at the first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove it, and if a vote in any council results in a tie, the application shall be deemed to be disapproved by the council.

Issue of debentures

(4) If the council, or a majority of the councils where there are more than one, approves the application and the Ontario Municipal Board approves it, the council of the municipality or, if more than one, the council of the municipality that has the greatest population shall raise the sum required by the issue of debentures in the manner provided by the *Municipal Act*, or, if it so desires, the council of any municipality may raise its proportion of the sum required by the issue of its own debentures. 1984, c. 57, s. 25.

R.S.O. 1980, c. 302

Library estimates included in county estimates

26.—(1) The amount estimated by a county library board to meet its operating costs, as approved by the council, shall be included in the amount required by the county for general county purposes under subsection 164 (1) of the *Municipal Act*, and shall be apportioned among the municipalities forming part of the county for municipal purposes, unless not all those municipalities participate in the county library, in which

R.S.O. 1980, c. 302

case the county council shall by by-law apportion the amount estimated by the county library board among the participating municipalities.

Accommodation may be provided by local municipality

(2) The council of one or more participating municipalities may, at the request of the county library board, rent accommodation to the board and may, subject to the approval of the Ontario Municipal Board, issue municipal debentures for the cost of constructing a building for the board's purposes, but the ownership of the building shall remain with the municipality unless the board and the council of the municipality agree otherwise. 1984, c. 57, s. 26.

Grant from council

27. The council of any municipality or county may make a grant in money, lands or buildings to a board. 1984, c. 57, s. 27.

Inspection of records

28.—(1) A person may, during ordinary business hours, inspect any records, books, accounts and documents in the possession or control of a board's secretary.

Exception

(2) Subsection (1) does not apply to information that,

(a) in the secretary's opinion, is of an intimate financial or personal nature; or

(b) identifies an individual user of library services by name or makes him or her readily identifiable by other means. 1984, c. 57, s. 28.

Contract for library services

29.—(1) The council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district may, instead of establishing or maintaining a public library, enter into a contract with a public library board, union board or county library board, or, where subsection 34 (2) applies, with the Ontario library service board that has jurisdiction, for the purpose of providing the residents of the municipality or local service board area or the members of the band, as the case may be, with library services, on the terms and conditions set out in the agreement.

Annual report to Minister

(2) The council, local service board, band council or trustees entering into a contract under subsection (1) shall make an annual financial report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister. 1984, c. 57, s. 29.

Payments to boards

30.—(1) The Minister shall make a grant to every board out of legislative appropriations for library purposes, on the prescribed conditions.

Idem: where municipality, etc., has contract for library services

(2) The Minister shall make a grant out of legislative appropriations for library purposes to every municipality, local service board, Indian band or improvement district that has a contract for library services under subsection 29 (1), on the prescribed conditions.

Idem: library of regional municipality

(3) Where a regional municipality has established a public library board, the Minister shall make a grant to the board out of legislative appropriations for library purposes as if it were a board under this Part.

Idem: library of Indian band or local service board

(4) Where the council of an Indian band or a local service board has established a public library, the Minister shall make a grant to the Indian band or local service board out of legislative appropriations for library purposes as if it were a board under this Part. 1984, c. 57, s. 30.

PART II

ONTARIO LIBRARY SERVICE

Establishment, etc., of Ontario library service areas

31. The Minister may establish and locate Ontario library service areas throughout Ontario, may determine and may from time to time alter the boundaries of an Ontario library service area and may dissolve an Ontario library service area. 1984, c. 57, s. 31.

Regional library systems dissolved

32.—(1) Every regional library system established for a region under a predecessor of this Act that was being operated immediately before the day this Part comes into force is dissolved and,

(a) where the region lies entirely within the boundaries of an Ontario library service area, the assets and liabilities of the regional library system are vested in and assumed by the board of the Ontario library service area; or

(b) where two or more Ontario library service areas are established in the region, the assets and liabilities of the regional library system shall be apportioned among the boards of the Ontario library service areas as the Minister directs.

Fiscal year

(2) The fiscal year of an Ontario library service area begins on the 1st day of April in each year and ends on the 31st day of March in the following year. 1984, c. 57, s. 32.

Board

33.—(1) An Ontario library service area shall be under the jurisdiction of a board, which is a corporation known as "The (*insert name specified by the Minister*) Ontario Library Service Board".

Composition of board

(2) A board shall consist of,

(a) one member appointed by the public library board for every municipality within the Ontario library service area that has a population of 15,000 or more;

(b) one member appointed by the county library board for every county within the Ontario library service area; and

(c) if the number of members appointed under clauses (a) and (b) is,

(i) less than nine, a number of additional members appointed by the Minister that brings the number of members to a total not exceeding nine, or

(ii) nine or more, a number of additional members appointed by the Minister that does not exceed one less than the number appointed under clauses (a) and (b).

First meeting, etc.

(3) The Minister or the Minister's delegate shall arrange for appointments to a board and shall call the first meeting of a board in a fiscal year.

Term of office

(4) A board member shall hold office until the last day of the fiscal year in which he or she is appointed, or until a successor is appointed, whichever is longer, and may be reappointed for one or more further terms.

Vacancies

(5) Where a vacancy arises in the membership of the board, the appointing public library board or county library board or the Minister, as the case may be, may appoint a person to fill the vacancy and to hold office for the unexpired term. 1984, c. 57, s. 33.

Objects of board

34.—(1) The objects of a board are to deliver programs and services on behalf of the Minister by,

(a) increasing co-operation and co-ordination among public library boards and other information providers in order to promote the provision of library services to the public; and

(b) assisting public library boards by providing them with services and programs that reflect their needs, including consultation, training and development services.

Direct library service in northern Ontario

(2) The board of an Ontario library service area designated by the Minister as a northern Ontario library service area may provide library services directly, whether under a contract with the council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district in the Ontario library service area as described in subsection 29 (1) or otherwise. 1984, c. 57, s. 34.

Powers of board

35.—(1) A board has the powers necessary or convenient to achieve its objects and, without limiting the generality of the foregoing, may,

(a) subject to clause (2) (a), make by-laws and rules for the administration of its affairs;

(b) appoint any person by resolution to execute documents on behalf of the board and to affix the board's seal to them;

(c) appoint such committees as it considers expedient; and

(d) enter into agreements with public library boards, union library boards and county library boards.

Duties of board

(2) A board shall,

(a) conduct its affairs in accordance with the administrative policies and procedures determined by the Minister;

(b) fix the times and places for board meetings and the mode of calling them, and ensure that proper minutes are kept;

(c) make an annual report to the Minister and make any other reports requested by the Minister;

(d) make provision for insuring the board's real and personal property; and

(e) take proper security for the treasurer. 1984, c. 57, s. 35.

Estimates

36.—(1) In each fiscal year the board shall submit to the Minister, in the form and on or before the day specified by the Minister, estimates of all sums required during the year for the area's purposes.

Approval of estimates

(2) The amount of the board's estimates that is approved by the Minister shall be adopted by the board and shall be paid to the board out of legislative appropriations for library purposes in the amounts, at the times and on the terms and conditions that the Minister considers proper. 1984, c. 57, s. 36.

Financial reports, etc.

37. A board shall submit to the Minister,

(a) in each fiscal year, its audited financial statements and descriptions of its programs and activities; and

(b) such further information as the Minister requests from time to time. 1984, c. 57, s. 37.

Application of general provisions

38. Subsection 10 (1) and sections 13 to 18, except subsections 14 (1) and 16 (1), apply to a board with necessary modifications. 1984, c. 57, s. 38.

PART III

GENERAL

Regulations

39. The Lieutenant Governor in Council may make regulations,

(a) providing for the distribution of all moneys appropriated by the Legislature for library purposes;

(b) prescribing the conditions governing the payments of grants;

(c) respecting the establishment, organization, management, premises and rules of public libraries;

(d) prescribing circulating materials or classes of circulating materials for the purpose of clause 23 (2) (a) (free library services). 1984, c. 57, s. 39.

Special library service boards

40.—(1) The Minister may establish special library service boards to provide the resources and services that the Minister specifies and may make grants to special library service boards out of legislative appropriations for library purposes.

s. 37 applies

(2) Section 37 applies to a special library service board with necessary modifications.

Metropolitan Toronto Library Board

R.S.O. 1980, c. 314

(3) The Metropolitan Toronto Library Board, as continued by subsection 148 (1) of the *Municipality of Metropolitan Toronto Act*, shall be deemed to be a special library service board and may provide library resources and services to the Ontario library community. 1984, c. 57, s. 40.

Withholding grant on default of board

41. Where a board in any fiscal year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant that would otherwise be payable to the board for that year. 1984, c. 57, s. 41.

Dissolution by Minister

42.—(1) The Minister may dissolve a public library board, a union board, a county library board or a county library co-operative board where the board has not, during the two year period immediately preceding the dissolution, maintained and operated a library.

Idem

(2) The Minister may dissolve an Ontario library service board where the Ontario library service area under its jurisdiction has been dissolved.

Assets and liabilities of dissolved board

(3) Where a board is dissolved under subsection (1), its assets and liabilities are vested in and assumed by the municipality or county or, in the case of a union board, are distributed as the Minister directs among the municipalities for which the union board was established.

Idem

(4) Where a board is dissolved under subsection (2), its assets and liabilities are vested in and assumed by the Crown in right of Ontario. 1984, c. 57, s. 42.